



50 YEARS OF FUN!

Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

AGENDA

REGULAR MEETING OF THE CITY COUNCIL

NOVEMBER 9, 2004

7:30 P.M.

COUNCIL CHAMBERS

5300 BELT LINE ROAD

REGULAR SESSION

Item #R1 – Consideration of Old Business

Item #R2 – Consent Agenda

CONSENT AGENDA

- #2a – Approval of the Minutes for the October 25, 2004 and October 26, 2004 Council Meetings.
-
- #2b – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$188,767.00 with Decker Mechanical Incorporation (DMI) for replacement of the Addison Athletic Club Natatorium Pool Pak Unit.
-
- #2c – Consideration of approval of award of bid and a Resolution authorizing the City Manager to enter into a contract in the amount of \$153,675.00 with Jim Bowman Construction Company for the construction of the Stone Cottage parking lot.
-
- #2d – Consideration of a Resolution rescinding an award of a bid in the amount of \$35,680.00 with DCC Inc. for annual maintenance of display fountains and waterfall pumping systems and the rejection of all submitted bids.
-

Item #R3 – **PUBLIC HEARING** and consideration of an Ordinance approving a change of zoning from Commercial-1 (C-1) to Planned Development (PD) with all Commercial-1 uses allowed, hotel/motel as an allowed use, and the sale of alcoholic beverages for on-premises consumption only as an allowed use, approval of development plans, and approval of a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, Wingate Inn, on application from Hospitality Management Corporation, located at 4960 Arapaho Road, represented by Mr. John O'Connor.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on October 21, 2004, voted to recommend approval of the request for a change of zoning from Commercial-1 (C-1) to Planned Development (PD) with all Commercial-1 uses allowed, hotel/motel as an allowed use, and the sale of alcoholic beverages for on-premises consumption only as an allowed use, approval of development plans, and approval of a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

1. The term “bar”, “tavern”, or any equivalent term, or graphic depiction, associated with alcoholic beverages shall not be used in exterior signs.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott

Voting Nay: None

Absent: Chafin, Mellow

Administrative Recommendations:

Administration recommends approval.

Item #R4 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 14833 Midway Road, Suite 110, on application from Kelly Catering, represented by Ms. Kelly Paullus.

Attachments:

1. Docket Map
2. Staff Report
3. Letter from Deanne Rogers
4. Plans

The Planning and Zoning Commission Findings:

At the Commission hearing, Ms. Paullus indicated that although she did not plan to enclose space as a patio, she would like to put a few tables and chairs in front of the space for customers. The commission determined that approximately 100 square feet could be added to the square footage of the request in order to provide for some tables and chairs to be placed in front of the restaurant. The Addison Planning and Zoning Commission voted to recommend approval of the request, subject to the following conditions:

1. Any dead or missing plant material on the site shall be replaced and the irrigation system for the site shall be inspected, and repaired if necessary, prior to the issuance of a Certificate of Occupancy for this restaurant.
2. The applicant shall not use any terms, including the terms "bar", "tavern", or graphic depictions that denote alcoholic beverages in exterior signs.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott
Voting Nay: None
Absent: Chafin, Mellow

Administrative Recommendations:

Administration recommends approval.

Item #R5 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant and an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 3885 Belt Line Road (formerly Racks), on application from Mr. Eddy Metten.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on October 21, 2004, voted to recommend approval of the request for an amendment to an existing Special Use Permit for a restaurant and an amendment to an existing Special use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

1. The landscaping and irrigation systems on the site shall be pruned, renovated, and repaired (if necessary) prior to the issuance of a Certificate of Occupancy for this proposed use.
2. The applicant shall not use any terms, including the term "club", or graphic depictions that denote alcoholic beverages in exterior signs.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott

Voting Nay: None

Absent: Chafin, Mellow

Administrative Recommendations:

Administration recommends approval.

Item #R6 – **PUBLIC HEARING** and consideration of an Ordinance approving a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 5290 Belt Line Road, Suite 110, on application from Chipotle Mexican Grill.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on October 21, 2004, voted to recommend approval of the request for a Special Use Permit for a restaurant and a Special use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

1. Any dead or missing plant material on the site shall be replaced and the irrigation system for the site shall be

inspected, and repaired if necessary, prior to the issuance of a Certificate of Occupancy for this restaurant.

2. The applicant shall not use any terms, including the terms “bar”, “tavern”, or graphic depictions that denote alcoholic beverages in exterior signs.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott
Voting Nay: None
Absent: Chafin, Mellow

Administrative Recommendations:

Administration recommends approval.

Item #R7 – **PUBLIC HEARING** and consideration of an Ordinance approving development plans in an existing Planned Development (PD) district, located on the northeast corner of Marsh Lane and Belt Line Road, on application from Century Bank, represented by Mr. Joel Miller of TAC Development.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on October 21, 2004, voted to recommend approval of the request for development plans in an existing Planned Development district, subject to the following conditions:

1. All mechanical equipment must be screened from view.
2. The applicant must provide a 2-foot dedication for a free right turn lane on the site. The dedication can be performed by either a replat or separate instrument.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott
Voting Nay: None
Absent: Chafin, Mellow

Administrative Recommendations:

Administration recommends approval.

Item #R8 – **PUBLIC HEARING** on the proposed issuance by the City of one or more series of Combination Tax and Revenue Certificates of Obligations, Series 2004 (the “Certificates”) for airport improvements in the amount of \$4.4 million.

Attachment:

1. Council Agenda Item Overview

Item #R9 – Consideration of an Ordinance approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for Wachovia Bank, located at 5080 Spectrum Drive, on application from Accent Graphics, Inc.

Attachments:

1. Staff Report
2. Memorandum from Lynn Chandler
3. Application
4. Plans

Administrative Recommendation:

Administration recommends approval.

Item #R10 – Consideration of a Resolution authorizing the City Manager to enter into an advertising contract in the amount \$128,482.00 with the Dallas Morning News to purchase twenty-six (26) insertions in the Friday Guide.

Attachments:

1. Council Agenda Item Overview
2. Contract

Administrative Recommendation:

Administration recommends approval.

Item #R11 – Consideration of a Resolution authorizing the execution of an Interlocal Agreement with government entities utilizing the DemandStar online purchasing system.

Attachments:

1. Council Agenda Item Overview

2. Resolution

Administrative Recommendation:

Administration recommends approval.

Item #R12 – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$94,175.00 with Houston-Galveston Area Council for the purchase of five (5) vehicles.

Attachment:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item #R13 – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$52,000.00 with ZOLL Data System for the purchase of an Electronic Patient Data System, subject to final review and approval of the City Attorney.

Attachments:

1. Council Agenda Item Overview
2. Memorandum from Chris Kellen
3. Letter from Mickey Dawes
4. Agreement

Administrative Recommendation:

Administration recommends approval.

Adjourn Meeting

Posted 5:00 p.m.
November 4, 2004
Carmen Moran
City Secretary

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS
WITH DISABILITIES. PLEASE CALL (972) 450-2819 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

October 25, 2004

6:00 p.m. – Town Hall, Upstairs Conference Room
5350 Belt Line Road

Present: Mayor Wheeler, Councilmembers Braun, Chow, Hirsch, Niemann, Silver, Turner
Absent: None

Item #WS1 – Presentation of Department's Quarterly Operation Reports.

No action taken.

There being no further business before the Council, the meeting was adjourned.

Mayor

Attest:

City Secretary

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

October 26, 2004
7:30 p.m. - Council Chambers
5300 Belt Line Road

Present: Mayor Wheeler, Councilmembers Braun, Chow, Hirsch, Niemann, Silver, Turner
Absent: None

Item #R1 – Consideration of Old Business

The following employees were introduced to the Council: Dan Fletcher (Police) and John Tisdale (Fire).

Ron Whitehead, City Manager, presented Council with an updated calendar highlighting upcoming events. Councilmember Greg Hirsch's birthday was acknowledged.

Item #R2 – Consent Agenda

Item #2a – Approval of the Minutes for the October 12, 2004 Council Meeting. (Approved)

Item #2b – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$5,751 with the Dallas County Health Department for annual health services. (Approved) (R04-095)

Item #2c – Consideration of a Resolution authorizing the City Manager to enter into a contract with Trinity River Authority (TRA) for wastewater testing services. (Approved) (R04-096)

Item #2d – Consideration of a Resolution approving sponsorship in the amount of \$50,000.00 with the Cavanaugh Flight Museum to assist in the Museum's marketing efforts. (Approved) (R04-097)

Item #2e – Consideration of approval of final payment in the amount of \$273,101.42 with Site Concrete Inc. for construction of the Spectrum Drive North/South Extension Project. (Approved)

Item #2f – Consideration of approval of a 9-1-1 billing agreement with GTC Telecom, which have a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2g – Consideration of approval of a 9-1-1 billing agreement with Quantum Shift Communications, Inc., which have a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2h – Consideration of approval of a 9-1-1 billing agreement with Starlight Phone Inc., which have a Service Provider Certificate of Operating Authority (SPCOA) from the Texas

Public Utilities Commission. (Approved)

Item #2i – Consideration of approval of a 9-1-1 billing agreement with Matrix Telecom Inc., which have a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2j – Consideration of approval of a 9-1-1 billing agreement with Comm South Companies, Inc., which have a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2k – Consideration of approval of a 9-1-1 billing agreement with Metro Teleconnect Companies, which have a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Item #2l – Consideration of approval of a 9-1-1 billing agreement with AT&T Communications of Texas, which have a Service Provider Certificate of Operating Authority (SPCOA) from the Texas Public Utilities Commission. (Approved)

Councilmember Chow moved to duly approve the above listed items. Councilmember Silver seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner

Voting Nay: None

Absent: None

Item #R3 – Presentation of the 2004 Best of Texas for Demonstrated Leadership in Management of Information Technology from the Center for Digital Government.

Mayor Wheeler presented the 2004 Best of Texas Award for Demonstrated Leadership in Management of Information Technology from the Center for Digital Government to Hamid Kaleghipour, Information Technology Director for the Town of Addison.

Item #R4 – Consideration of a Resolution approving a Third Amendment to Agreement for the Operation and Management of Addison Airport between the Town of Addison, Texas and Washington Staubach Addison Airport Venture.

Councilmember Chow moved to duly pass Resolution No. R04-098 approving a Third Amendment to Agreement for the Operation and Management of Addison Airport between the Town of Addison, Texas and Washington Staubach Addison Airport Venture subject to final approval by the City Attorney. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner

Voting Nay: None

Absent: None

Item #R5 – Presentation of Department's Quarterly Operation Reports.

- City Manager

- Visitor Services
- Special Events
- Development Services
- Human Resources
- Public Works

Mayor Wheeler announced that this item would be presented after the Executive Session.

EXECUTIVE SESSION. At 8:16 p.m., Mayor Wheeler announced that the Council would convene into Executive Session.

Item #ES1 – Closed (executive) session of the City Council pursuant to Chapter 551. 071, Texas Government Code, to conduct a private consultation with its attorney to seek the advice of its attorney about contemplated litigation and on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 552, Texas Government Code, to wit: Festival Way construction.

The Council came out of Executive Session at 8:41 p.m.

Item #R5 – Presentation of Department's Quarterly Operation Reports.

- City Manager
- Visitor Services
- Special Events
- Development Services
- Human Resources
- Public Works

No action was taken.

There being no further business before the Council, the meeting was adjourned.

Mayor

Attest:

City Secretary

Council Agenda Item: #2b

SUMMARY:

Staff recommends that the Council approve a proposal totaling \$188,767.00 to Decker Mechanical Incorporation (DMI) for replacement of the Addison Athletic Club natatorium Pool Pak unit. A detailed summary of the work is attached with their proposal.

FINANCIAL IMPACT:

Budgeted Amount: \$120,000.00 – FY 2004-05 Recreation Operations Budget

Cost: \$188,767.00

Staff recommends that \$30,000.00 budgeted for interior painting at the Club be used to help cover the cost. The remaining \$38,767 will be funded out of the Parks operations budget, which was budgeted to address various park infrastructure repairs. Some of these maintenance/repair projects will be deferred in order to free up the remaining funds needed.

BACKGROUND:

The General Services Department sent out Request for Proposals and 322 HVAC contractors were notified of the bid. There were 17 plan holders, and four companies visited the Club to inspect the site. Decker Mechanical and Gulf Energy Systems submitted proposals.

Decker Mechanical submitted the most comprehensive proposal with a recommendation of replacing the unit in the same location. A detailed summary of their construction plan is included in the attached proposal, as well as, photos showing the location of the unit. The second proposal from Gulf Energy Systems was based on putting the unit on the roof, which the staff did not feel comfortable with, particularly since their bid was significantly higher at \$225,815.

RECOMMENDATION:

Decker Mechanical's proposal estimates the work to be completed in 21 days. Staff recommends approval.



Current location of the Pool Pak unit inside the building.



2nd Floor location of the Pool Pak unit.



Pool Pak unit.



View from the fitness area.

**ITEM #2b-2 IS NOT
AVAILABLE
ELECTRONICALLY**

Council Agenda Item: #2c

SUMMARY:

Staff recommends that the Council approve a contract with Jim Bowman Construction totaling \$153,675.00 for construction of the Stone Cottage parking lot. Three contractors submitted bids, which are listed on the attached bid tabulation form.

FINANCIAL IMPACT:

Budgeted Amount: **\$155,000.00 - Addison Circle Park Bond Funds**

Cost: **\$153,675.00**

This project will be funded from surplus bond funds remaining from the Addison Circle Park project.

BACKGROUND:

The project scope includes: construction of a parking lot with 26 parking spaces and 2 handicap spaces; drainage system with storm inlets; sanitary sewer connections for special event restrooms; lighting with electric receptacles; removable bollards; irrigation and landscaping.

The construction completion is estimated at approximately 60 days.

RECOMMENDATION:

Jim Bowman Construction has successfully completed several paving construction projects for the town. Staff recommends approval.

Stone Cottage Parking Lot
Bid NO 05-01

DUE: October 19, 2004

2:00 PM

BIDDER	SIGNED	Bid Bond	Addendum 1	Bid Amount	Calendar Days
Jim Bowman Construction Co	y	y	y	\$153,675.00	60
Riverway Contractors	y	y	y	\$161,928.00	90
Site Planning Site Development Inc.	y	y	y	\$185,064.00	55

Minok Suh

Minok Suh, Purchasing Coordinator

Corey Gayden

Witness

Council Agenda Item: #2d

SUMMARY:

Staff recommends that the Council rescind a bid award to DCC Inc. totaling \$35,680.00 for annual maintenance of display fountains and waterfall pumping systems and reject all bids.

FINANCIAL IMPACT:

Budgeted Amount: Total Funding Available FY 2004-05 Budget - \$45,000
 Parks Operations Budget - \$15,000
 Special Events Budget – Addison Circle Park - \$30,000

Cost: N/A

BACKGROUND:

Council awarded a bid to DCC Inc. in September; however, they could not honor the contract due to unforeseen insurance requirements. DCC opted to not sign the contract based on their insurance agents recommendation. Apparently their insurance company was named in the Ft. Worth drowning lawsuit, so they indicated that the new rates would be so expensive that it would drive the cost up to an unreasonable level.

Staff intends to re-bid the contract this month and bring a new contract recommendation to the Council in January 2005. Normally a contract could be awarded to the second lowest bidder, but the second low bid was outside the budget range, thus staff is recommending that all bids be rejected and this contract be re-bid. Staff has already developed strategies on how to attract additional bidders when this contract is re-bid in November.

RECOMMENDATION:

Staff recommends approval.

Fountain and Waterfall Maintenance

Bid NO 04-28

DUE: August 3, 2004

2:00 PM

BIDDER	SIGNED	Scheduled Fountain Maintenance Cost	Add. Site Visits for Repairs - Labor	Add. Site Visits for Extra Cleaning - Labor
D.C.C. Inc.	Y	\$35,680.00	\$60.00/hour	\$45.00/hour
KC Fountains and Scapes	Y	\$170,799.84	\$80.00/hour	\$80.00/hour

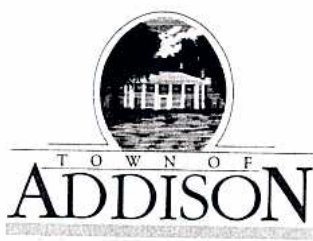
Minok Suh

Minok Suh, Purchasing Coordinator

Corey Gayden

Witness

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Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

October 14, 2004

STAFF REPORT

RE: Case 1473-SUP/Wingate Inn

LOCATION: 4960 Arapaho Road

REQUEST: Approval of a change of zoning from C-1 (Commercial-1) district to a PD (Planned Development) with all Commercial-1 uses allowed, hotel/motel as an allowed use, and the sale of alcoholic beverages for on-premises consumption only as an allowed use, approval of development plans, and approval of a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only.

APPLICANT: Hospitality Management Corporation,
Represented by Mr. John O'Connor

DISCUSSION:

Background. This case was heard by the Planning and Zoning Commission and was placed on the Council agenda for October 12, 2004. The Town's attorneys felt that the way the case was worded, noticed to the public, and advertised did not provide sufficient notice to the public about the change from Commercial-1 zoning to a Planned Development district. The attorneys suggested the case be re-noticed, re-advertised, and re-heard by the Commission. The new notice lists all the uses that will be allowed in the PD district, not just the sale of alcoholic beverages for on-premises consumption only. There is no difference in the plans, or any other aspect of the case. We have not had any questions from any of the adjacent owners, nor did anyone attend the public hearing.

This property is currently zoned C-1 (Commercial-1). Wingate Inn received zoning approval through a Special Use Permit for a hotel, approved by the Council on April 14, 1998 (Ordinance 098-022). The Wingate Inn opened shortly thereafter, and has been in continuous operation since that time. The Wingate Inn offered a continental breakfast to guests, but did not have a full-service restaurant and did not serve alcoholic beverages.

At this point, the owners are going to "change flags." They will rename the hotel, possibly to Holiday Inn Express, and will associate the hotel with a different nation-wide hotel company. As part of the change, the owners would like to convert the breakfast room to a full restaurant, and offer the sale of alcoholic beverages for on-premises consumption only. The existing Commercial-1 district allows a restaurant (with a Special Use Permit), but does not allow the sale of alcoholic beverages for on-premises consumption only. Therefore, the hotel must have a zoning change in order to sell alcohol.

Proposed Plan. The applicant is planning to convert the breakfast room into a full restaurant. The existing pantry will be expanded into a full kitchen, and a small bar will be added in the dining area. The restaurant does not anticipate bringing in from customers who are not guests of the hotel, but it will serve non-guests. The staff has determined that about 3,550 square feet of the ground floor, which includes the kitchen, restroom, lobby and meeting room, could be available for food and alcohol service.

Facades. The applicant will be making some minor modifications to the facades. The curved cornices, that were part of the Wingate Inn brand, will be changed to squared cornices.

Parking. The change in zoning and the Special Use Permits to not cause any changes to the parking requirements. However, the owners are planning to add a swimming pool to the east end of the hotel, and they will eliminate four parking spaces in order to make room for the pool. The owners are planning to replace those spaces on the west end of the site.

Landscaping. The staff has examined the site, and finds that it meets the requirements of the ordinance and is being maintained.

Signs. The applicant has shown signs on the facades. However, it should be aware that all signs must be permitted under the requirements of the Addison Sign ordinance, and cannot be approved through this process. In addition, Addison has a policy against the use of the term "bar", "tavern", or any equivalent terms in exterior signs.

Food Service Code. The applicant should be aware that the new restaurant must comply with all the requirements of the Food Service Code, including the installation of a grease trap.

RECOMMENDATION:

Staff feels that a restaurant and the sale of alcoholic beverages for on-premises consumption only are appropriate uses for this site. Staff recommends approval of the change of zoning from C-1 (Commercial-1) to PD (Planned Development), with all Commercial-1 uses allowed, hotel/motel as an allowed use, and the sale of alcoholic beverages for on-premises consumption only as an allowed use, approval of development plans, and approval of a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following condition:

-The term "bar", "tavern", or any equivalent terms, or graphic depictions associated with alcoholic beverages shall not be used in exterior signs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C Moran' with a stylized flourish at the end.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on October 21, 2004 voted to recommend approval of the request on application from Wingate Inn, subject to the following condition:

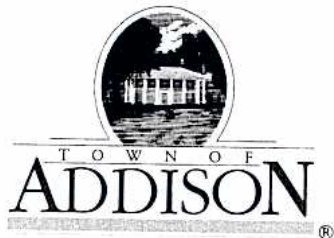
-The term "bar", "tavern", or any equivalent term, or graphic depiction, associated with alcoholic beverages shall not be used in exterior signs.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott,

Voting Nay: None,

Absent: Chafin, Mellow

[illegible]

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Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

October 14, 2004

STAFF REPORT

RE: Case 1475-SUP/Kelly Catering

LOCATION: 14833 Midway Road, Suite 110

REQUEST: Approval of an amendment to an
Special Use Permit for a restaurant, and
a Special Use Permit for the sale of
alcoholic beverages for on-premises
consumption only

APPLICANT: Ms. Kelly Paullus

DISCUSSION:

Background. This lease space is located in the Midway Square Shopping Center. The space was originally developed as a Quizno's Sandwich Shop through Ordinance 094-073, approved by the City Council on November 8, 1994. Quizno's closed and the space was taken over by Street's Sandwiches. Street's closed and was taken over by Amigos Colombianos. The applicant is making very minor changes to the space, and this request could be approved administratively, except that none of the previous restaurants in this space have offered alcoholic beverages. Ms. Kelly Paullus plans to take over the space and move her catering business into it. However, she also wants to open a small restaurant where she will offer lunch and dinner, coffees, and wine. In order to sell wine for on-premises consumption, the space must have a SUP for the sale of alcoholic beverages for on-premises consumption only.

Proposed Plan. The floor plan shows a 1,800 square-foot space. The kitchen takes approximately 840 square feet. The dining area and restrooms take the remaining 960 square feet. The plan does not show a separate bar area. The restaurant does not show a patio, and the applicant did not indicate that one was desired.

Parking. Restaurant uses in this center have a parking ratio of one space per 100 square feet. This restaurant is the same size as the previous restaurant that occupied the space. It will require 18 spaces, which the site can provide.

Landscaping. The landscaping in this center meets the requirements of the ordinance and is typically well-maintained. The staff will make a site inspection prior to the issuance of a Certificate of Occupancy, and any dead and missing plants on the site will have to be installed prior to the issuance of the CO.

Signage. The plans do not show any signs, but the applicant should be aware that signs cannot be approved through this process. All signs for the restaurant must comply with the requirements of the Addison Sign Ordinance. The applicant should also be aware that the Town has a policy against allowing any exterior signs, which contain the words "bar", "wine" or any terms, or graphic depictions, which relate to alcoholic beverages on exterior signs for the restaurant.

RECOMMENDATION:

Staff recommends approval of the amendment to an existing Special Use Permit for a restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

- any dead or missing plant material on the site shall be replaced and the irrigation system for the site shall be inspected, and repaired if necessary, prior to the issuance of a Certificate of Occupancy for this restaurant.
- the applicant shall not use any terms, including the term "bar," "wine," or any graphic depictions that denote alcoholic beverages in exterior signs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "CMORAN", with a stylized flourish at the end.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

At the Commission hearing, Ms. Paullus indicated that although she did not plan to enclose space as a patio, she would like to put a few tables and chairs in front of the space for customers. The Commission determined that approximately 100 square feet could be added to the square footage of the request in order to provide for some tables and chairs to be placed in front of the restaurant. The Addison Planning and Zoning Commission voted to recommend approval of the request subject to the following conditions:

-any dead or missing plant material on the site shall be replaced and the irrigation system for the site shall be inspected, and repaired if necessary, prior to the issuance of a Certificate of Occupancy for this restaurant.

-the applicant shall not use any terms, including the term "bar," "wine," or any graphic depictions that denote alcoholic beverages in exterior signs.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott

Voting Nay: None

Absent: Chafin, Mellow

Deanne Rogers
14879 Towne Lake Circle
Addison, Texas 75001
972-702-8850

October 11, 2004

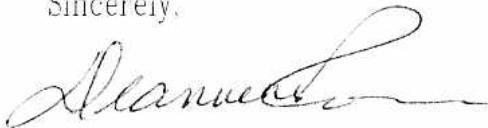
Carmen Moran
Director of Development Services
P.O. Box 9010
Addison, Texas 75001

RE: Case 1475-SUP/Kelly Catering

Ms. Moran,

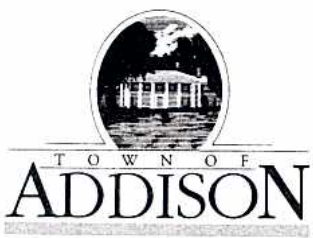
I am writing to protest the application from Kelly Catering to serve alcoholic beverages at 14833 Midway Road, Suite 110. As you know, the homeowners at Towne Lake of Addison that face the parking area for this establishment have had previous and continuous problems with noise due to Stone Trail and former businesses at the 14833 Midway Road location. The parking lot is always full and another business will make it worse. We call the Addison police often due to people congregating out in the parking lot, load music from autos, and blaring auto horns and alarms. The Addison police continue to tell us that there is not much they can do since Addison does not have a loitering law. We do not need another establishment serving alcoholic beverages that would add more people doing more of the same in this area.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Deanne M. Rogers', written in dark ink.

Deanne M. Rogers

[illegible]



50 YEARS OF FUN!

Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

October 14, 2004

STAFF REPORT

RE: Case 1476-SUP/Eddy Metten

LOCATION: 3885 Belt Line Road

REQUEST: Approval of an amendment to an existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only

APPLICANT: Mr. Eddy Metten

DISCUSSION:

Background. The applicant is proposing to reopen a space that was last occupied by Racks Rib Restaurant. The space was originally developed as the Red Robin Restaurant. Red Robin was approved through Special Use Permit ordinance 094-057, which was passed by the City Council on September 13, 1994. When Racks took over the Red Robin space, the changes were minor and cosmetic in nature. Therefore, the changes were approved administratively. Racks has been closed for approximately two years.

Proposed Plan. At this point, Mr. Metten wants to remodel and reopen the original Red Robin Restaurant as a live music venue. He is proposing to take the restaurant pretty much "as is", but will add a stage in a corner at the south end of the dining area. He is not proposing any changes to the existing patio on the east side of the building, nor is he proposing any changes to the exterior of the building. He is planning minor changes to the dining area. The restaurant was divided up into smaller spaces by 4-foot high partitions. The applicant is proposing to take out most of those partitions and replace many of the booths in the restaurant with tables and chairs. The applicant will also add a sound booth/dj stand in the middle of the south dining area.

Façade. The applicant submitted photos showing the existing façade of the restaurant. He is not proposing any changes to the façade, but will repaint the roof and may replace the awnings.

Landscaping. The landscaping on the site needs to be pruned back and cleaned up. The applicant is not proposing any changes to the footprint of the building and will not remove any landscaping. However, he must replace any dead or missing plant material, and the landscaping and irrigation system must be inspected, and up-graded if necessary, prior to the issuance of a Certificate of Occupancy for the space.

Parking. The restaurant is 7,469 square feet with a 972-square-foot patio, which totals 8,441 square feet. The parking ratio for a free-standing restaurant is one space per 70 square feet, so the restaurant requires 120 parking spaces, and the site provides 133 spaces.

Signs. The applicant did not submit plans for any signs, and has not submitted a proposed name for the business. The applicant should be aware that all signs must be permitted under the requirements of the Addison Sign ordinance, and cannot be approved through this process. The applicant should also be aware that the Town has a policy against the use of any terms, including the term "club," or graphic depictions that denote alcoholic beverages in exterior signs.

RECOMMENDATION:

While the applicant plans to serve food, he does not maintain that this will be a full-service restaurant. Addison's guidelines for 60% food and not more than 40% alcohol sales are set in each separate special use permit, and can, in fact have been varied. The TGI Friday's restaurant, when it opened, did not expect to maintain a 60/40 ratio, and was approved with a 50/50 ratio. The Improv and Pete's Dueling Pianos also did not plan to make a 60/40 ratio, and were not required in its Special Use Permit to meet a 60/40 requirement.

While the city has the ability to vary the 60/40 requirement, it does so very carefully. When assessing an entertainment offering, the staff looks at the type of entertainment offered. Before approving the Improv and Pete's, the staff visited existing locations for both. Staff determined that while both of these operations did not serve 60% food, they

did offer food, and they functioned more like a dinner theatre than a singles bar. This applicant does not have an existing operation for the staff to visit. However, the Town has several other restaurants that offer live music regularly. Staff believes a live music venue would be workable on this site because the site is not close to any residential units. In addition, the site has 133 parking spaces, with the availability of additional parking at the bank location across Commercial Drive to the east.

RECOMMENDATION:

Staff recommends approval of the request for an amendment to an existing Special Use Permit for a restaurant, and an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

- The landscaping and irrigation systems on the site shall be pruned, renovated, and repaired (if necessary) prior to the issuance of a Certificate of Occupancy for this proposed use.
- The applicant shall not use any terms, including the term "club," or graphic depictions that denote alcoholic beverages in exterior signs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. MORAN' with a stylized, cursive flourish.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in a rescheduled session on October 21, 2004 voted to recommend approval of the amendment to a Special Use Permit for a restaurant and the Special Use Permit for the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

- The landscaping and irrigation systems on the site shall be pruned, renovated, and repaired (if necessary) prior to the issuance of a Certificate of Occupancy for this proposed use.
- The applicant shall not use any terms, including the term "club," or graphic depictions that denote alcoholic beverages in exterior signs.

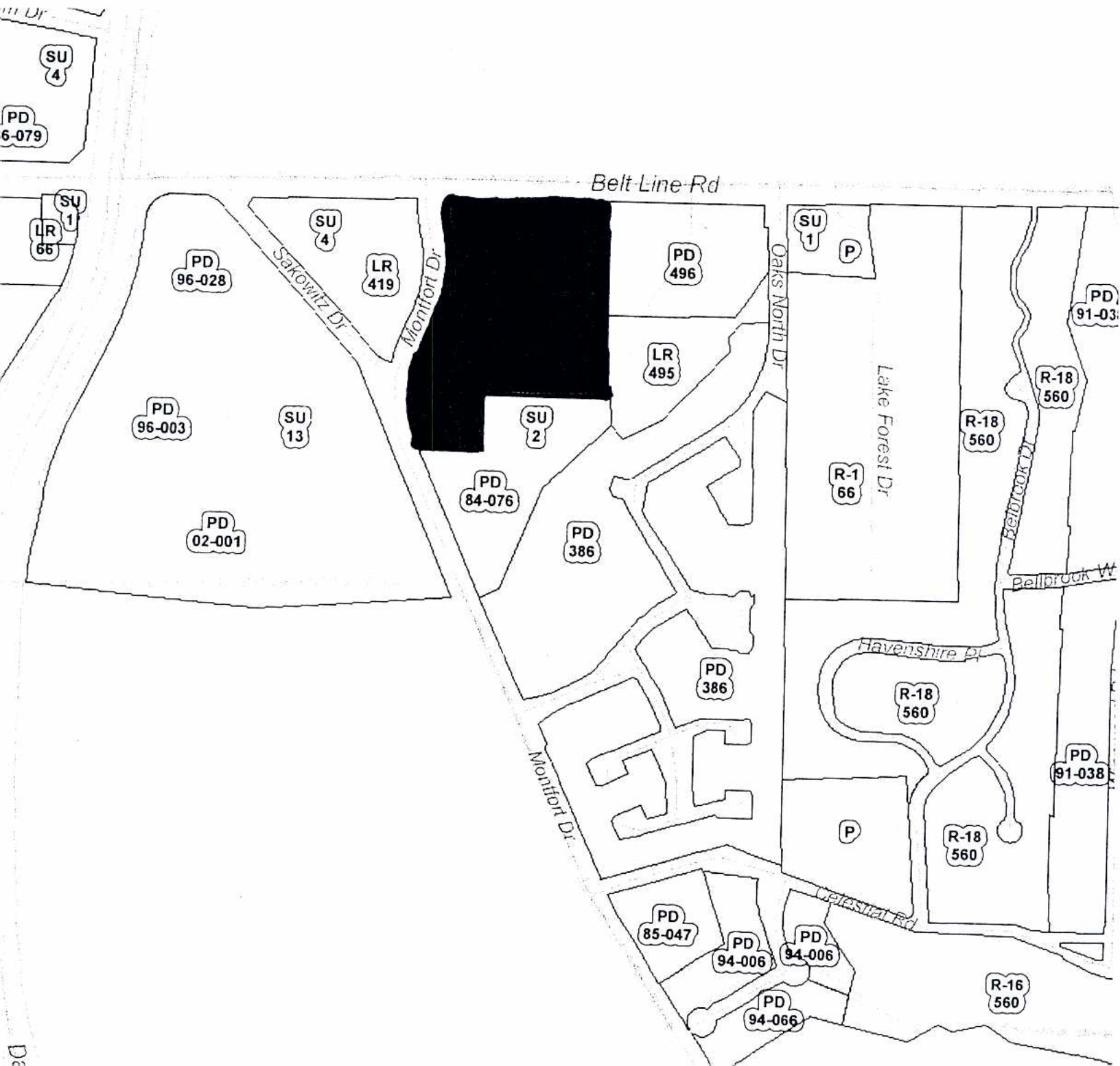
Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott

Voting Nay: None

Absent: Chafin, Mellow

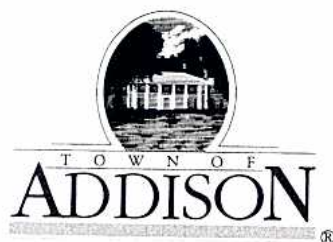
1477-SUP

Case 1477-SUP/Chipotle Mexican Grill. Requesting approval of a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 5290 Belt Line Road, Suite 110, on application from Chipotle Mexican Grill.



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Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

October 14, 2004

STAFF REPORT

RE: Case 1477-SUP/Chipotle Mexican Grill

LOCATION: 5290 Belt Line Road, Suite 110

REQUEST: Approval of a Special Use Permit
for a restaurant, and a Special Use
Permit for the sale of alcoholic
beverages for on-premises
consumption only

APPLICANT: Chipotle Mexican Grill

DISCUSSION:

Background. This lease space is located in the Prestonwood Place Shopping Center. The restaurant is proposed for the lease space at the corner of Montfort and Belt Line Road that is currently occupied by a Pearle Vision Center. Chipotle Mexican Grill has another location in Addison at the northeast corner of Marsh Lane and Belt Line Road.

Proposed Plan. The floor plan shows a 2,193-square foot restaurant with a 361-square foot patio. The plan does not show a separate bar area, but the applicant intends to serve beer and wine. Food is ordered at a deli-style counter and then picked up by the customers. The drinks are self-service. The kitchen will take up 840 square feet (38%) and the dining area and restrooms will take up the remaining 1,353 square feet (62%) of the floor area.

Parking. Restaurant uses in this center have a parking ratio of one space per 100 square feet. This restaurant will require 26 spaces, including the spaces required for the patio. The site will provide sufficient parking. However, the shopping center owner should be aware that there is a limit to the amount of restaurant space that can be added to this center.

Landscaping. The landscaping in this center meets the requirements of the ordinance and is typically well-maintained. The staff will make a site inspection prior to the issuance of a Certificate of Occupancy, and any dead and missing plants on the site will have to be installed prior to the issuance of the CO.

Food Service Code. This restaurant will require a grease trap, and the applicant should be advised that the restaurant will be subject to all regulations contained in the Addison Food Service Ordinance.

Signage. The applicant will not make any changes to the existing EIFS façade for the space. The plans show signs on the facades, but the applicant should be aware that signs cannot be approved through this process. All signs for the restaurant must comply with the requirements of the Addison Sign Ordinance. The applicant should also be aware that the Town has a policy against allowing any exterior signs, which contain the words "bar", "tavern" or any terms, or graphic depictions, which relate to alcoholic beverages, on exterior signs.

RECOMMENDATION:

Staff recommends approval of the Special Use Permit for a restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

- any dead or missing plant material on the site shall be replaced and the irrigation system for the site shall be inspected, and repaired if necessary, prior to the issuance of a Certificate of Occupancy for this restaurant.

- the applicant shall not use any terms, including the term "bar," "tavern," or any graphic depictions that denote alcoholic beverages in exterior signs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C Moran'.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on October 21, 2004, voted to recommend approval of your request subject to the following conditions:

-any dead or missing plant material on the site shall be replaced and the irrigation system for the site shall be inspected, and repaired if necessary, prior to the issuance of a Certificate of Occupancy for this restaurant.

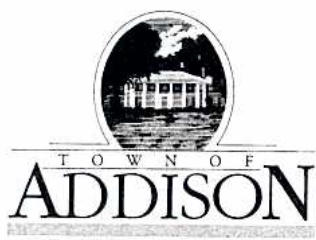
-the applicant shall not use any terms, including the term "bar," "tavern," or any graphic depictions that denote alcoholic beverages in exterior signs.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott

Voting Nay: None

Absent: Chafin, Mellow

[illegible]



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Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

October 14, 2004

STAFF REPORT

RE:

Case 1478-Z/Century Bank,

LOCATION:

.568 acres at the northeast corner
of Belt Line Road and Marsh Lane

REQUEST:

Approval of development plans in an
Existing PD (Planned Development)
District, (Ordinance 092-037)

APPLICANT:

Century Bank, represented by
Mr. Joel Miller of TAC Development

DISCUSSION:

Background. This small tract was the site of Shell service station for many years. Shell closed the site in 2002 and removed the tanks. Many service stations all over the metroplex have closed for various reasons, and cities are often left with a vacant corner that is hard to redevelop because of the small size and high price that a corner commands. In some locations, small banks have taken these corners, and a Compass Bank had been planned for this corner. The Compass Bank was approved by the Council in May of 2003; however, Compass Bank decided not to take the site. Century Bank, a bank out of Texarkana, Texas, is now planning to develop a bank with drive-through windows on the site.

Proposed Plan. The plans show a 3,147 square foot bank building with six drive-through lanes. The building will contain a lobby, four offices, men's and women's restrooms, various work rooms, and a central area for teller windows. The proposed building is approximately the same size as the building that Compass Bank proposed, but this bank has three more drive-through windows that Compass Bank had, and it has five more parking spaces than Compass Bank had. This results in less landscaping on the site, particularly on the street frontages for Marsh Lane and Belt Line Road.

Façade. The exterior of the building will be almost 100% brick with a slate tile roof and cast-stone trim at the corners and around the entry. The plans do not show where the mechanical equipment will be, but the applicant should be aware that all mechanical equipment must be screened from view.

Parking and traffic. The applicant will dedicate 12 feet of right-of-way for the continuation of the deceleration lane that presently stops at the entrance on the east side of this lot. The deceleration lane needs to be extended because drivers get in the lane thinking it goes all the way to Marsh Lane and then find it does not. Those drivers then have to get back into the traffic stream, which causes disruptions to the traffic flow. The staff has worked with the applicant to fit the building on the site and still have room to dedicate the deceleration lane. As Slade Strickland mentions in his memo, the required landscaping buffer has been reduced in order to provide for the lane.

The staff always looks carefully at the queuing for drive through uses. Staff typically requires at least 100 feet (5 cars) stacking from the transaction point. However, this site provides six drive-through windows with 80 feet of stack space at each window. Most banks provide three windows. Therefore, staff feels that the site provide sufficient stacking space for the bank use. Since the advent of electronic fund transfers and ATMs, the staff has noticed that drive-through lines at banks are not ever as long as they used to be.

Landscaping. The Parks Department has worked with the applicant to maximize the amount of landscaping on the site. However, the dedication requirement for the right-turn lane causes this applicant to have only six feet of landscaping on the Belt Line Road frontage and 5.24 feet on the Marsh Lane frontage.

The staff has dealt with redevelopment on other small corners along Belt Line. Corner sites, such as the southwest corner of Tollway and Belt Line, the southwest corner of Midway and Belt Line, the northwest corner of Midway and Belt Line, and the southeast corner of Addison Road and Belt Line, began their development life as healthy-sized tracts of land. However, over time, as the city grew and had to widen Belt Line and then the cross streets, these tracts got smaller and smaller. These corners have been "hit from both sides" as the streets have been widened. At all the other locations listed above, the city has made allowances for reduced landscaping in order to allow the corners to still be viable, revenue-producing tracts. The applicant would be able to provide the required 20-foot landscape buffer on the Belt Line Road frontage if the city were not asking for the dedication for the right-turn lane. The applicant is proposing a 4-foot wide sidewalk in order to maximize the amount of landscaping on the site. The staff believes the bank will be an attractive addition to the corner, and recommends approval of the landscaping plan.

Parking. Parking for a bank use is figured at a ratio of one space per 300 square feet. This 3,147 square-foot building requires 11 spaces and provides 16 spaces.

Dumpster. The applicant did not show a dumpster enclosure on the site. Many banks do not throw their trash in a dumpster because of the sensitive nature of their trash.

They contract with a bonded document disposal company that comes and picks up the trash every day and shreds it. Therefore, a dumpster is not required.


Signs. The applicant has shown signs on the building. The applicant should be aware that all signs must be permitted under the requirements of the Addison Sign ordinance, and cannot be approved through this process.

RECOMMENDATION:

The staff feels that this development will be a great use for this prominent corner, and recommends approval subject to the following conditions:

- All mechanical equipment must be screened from view.
- The applicant must provide a 2-foot dedication for a free right turn lane on the site. The dedication can be performed by either a replat or separate instrument.

Respectfully submitted,

A handwritten signature in black ink that reads "CMORAN". The "C" is large and loops around the "M".

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on October 21, 2004, voted to recommend approval of your request for development plan approval subject to the following conditions:

- All mechanical equipment must be screened from view.
- The applicant must provide a 2-foot dedication for a free right turn lane on the site. The dedication can be performed by either a replat or separate instrument.

Voting Aye: Benjet, Bernstein, Doepfner, Jandura, Knott
Voting Nay: None
Absent: Chafin, Mellow

Carmen Moran

From: Steve Chutchian
Sent: Wednesday, October 20, 2004 9:56 AM
To: Carmen Moran
Subject: Case #1478 Century Bank

Carmen:

In regards to a right turn lane on Belt Line Rd, at Marsh Lane, the property owner only needs to dedicate approximately two (2) feet of right-of-way. This dedication will allow Century Bank to complete the Town's requirement for construction of the right turn lane as part of the overall development. The dedication may be performed through platting or by separate instrument. Thanks.

Steve Chutchian

Council Agenda Item: #R8

SUMMARY:

A public hearing must be conducted on the proposed issuance of certificates of obligation (CO's) for Airport improvements.

FINANCIAL IMPACT:

The certificates will have a maturity of 15 years and based on a 4.75% annual interest rate, the annual debt service payment would be \$416,770. Although the Town pledges its full faith and credit behind the CO's (i.e. levy a property tax rate if needed), the certificates will be paid from the Airport fund. The 2005 Airport fund budget and long-term plan include funds for this purpose.

BACKGROUND:

The Airport fund long-term plan anticipates using fund balances to pay for capital projects that are eligible for matching federal and state grants. Two projects that are needed by the airport but are unlikely to receive matching grants are construction of a new fuel farm and drainage improvements. The fuel farm project budget is \$2 million while \$2.4 million has been allocated for the drainage project.

Under the Tax Code, public approval of the CO issuance is required through a public hearing, often known as a "TEFRA" hearing. Public approval through a hearing process is required in order to maintain the tax-exempt status of the bonds, which are private activity bonds.

RECOMMENDATION:

No action is needed at this time. The Town is simply providing an opportunity for the public to express their opinions regarding the CO issuance.

MERITORIOUS EXCEPTION TO THE ADDISON SIGN ORDINANCE STAFF REPORT ME 2004-11

Date: October 26, 2004 Location of Request: 5080 Spectrum Dr Business: Wachovia Bank

Ordinance Requirement

Sec. 62-163. Area.

Total effective area of attached signs shall not exceed the following schedules:

- (1) On an attached sign located at a height of up to 36 ft, the effective area is limited to 1 sq ft of sign area for each linear foot of building frontage not to exceed 100 sq ft
- (2) An attached sign located at or exceeding a height of 36 ft shall be permitted an increase in maximum effective area. Such increases shall not exceed 4 sq ft in effective area for each additional 1 ft of height above 36 ft measured from the base of the sign to the building grade.

- (3) Attached signs may be located on each facade; however, the sum of the effective area of all attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section.

- (4) Building with 4 or more stories in height may have not more than 2 attached signs per facade provided that:

- a. Each sign is designated for a separate tenant.
- b. One sign must be located on or near the uppermost story of the building while the 2nd sign is to be located on the 1st or ground level floor.
- c. Signs may be no closer than 30 ft apart.
- d. The combined effective sq footage of both signs may not exceed twice the allowed effective sq footage as specified in subsections (1) and (2) of this section.

- (5) Maximum letter/logo height of attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section. Maximum letter/logo height of attached signs shall be determined by the following schedule:

Sign Height (feet)	Letter/Logo Height (inches)	Maximum
0 - 36	16	
37 - 48	36	
49 - 100	48	
101 - 150	60	
151 and up	7	

- a. Letter heights in excess of 72 inches must be approved by the city council.

- b. Not more than 50% of the letters in each individual sign height category may be 25% taller than the specified maximum letter/logo height.

- (6) Copy on awnings is allowed in accordance with the above regulations for area and letter height. For back-lit awnings, the area of the sign shall be based on the area of the awning that is back-lit or illuminated.

STAFF RECOMMENDATION: The proposed 30" logo, to be located on the east facade, is visually artistic and not out of scale considering the size of the east facade, therefore staff recommends approval. Staff also recommends approval of the proposed Wachovia sign to be located on the south facade because of its location on the one story portion of the building. Staff does not consider the letter height to be out of scale with the building.

STAFF:

Lynn O. Chandler

Lynn Chandler, Building Official

Request

The applicant is requesting:

A sign on the east facade with a logo 30" in height.

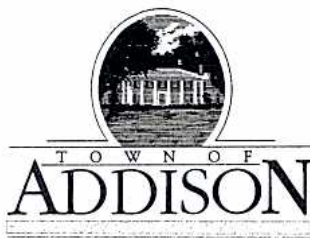
An additional sign on the south facade with one letter 20" in height and the remaining seven letters and logo 18" in height.

Variance

The ordinance allows:

1. a maximum letter height of 20" for 50% of the letters with the remaining letters to be 16" or less in height.

2. Buildings four or more stories are only allowed one sign on or near the top floor, one sign on or near the first floor, they must be designated for separate tenants and be located no closer than 30 feet apart.



BUILDING INSPECTION DEPARTMENT

(972) 450-2880 FAX (972) 450-2837

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16801 Westgrove

Post Office Box 9010 Addison, Texas 75001-9010

To: Carmen Moran, Director Development Services

From: *Lynn* Chandler, Building Official

Date: November 2, 2004

Subject: Exceptions to the Sign Ordinance for Attached Signs

The following list consists of several exceptions to the sign ordinance that are similar to the request from Wachovia Bank:

1. Addison Town Center Shopping Center located in the 3700 to 3800 block of Belt Line Road was granted an exception for letter heights up to 6' and more than one side per façade. October 1994
2. Village on the Parkway located at 5100 Belt line Road was granted an exception for letter Heights up to 30", more than one sign per façade and blade signs. June 1996
3. Addison Circle was granted an exception for more than two signs on a building four or More stories in height, signs above the roof and blade signs. March 1997
4. Centennial Liquor Store located at 15055 Inwood Road was granted an exception to place more than one sign on the east façade. March 1999
5. Hallmark located at 14312 Marsh Lane was granted an exception for letter heights of 36" and 26" due to the thin stroke of the letters and being located 250' from Marsh Lane. June 2000
6. Abbotsford Court located at 14775 Midway Road was granted an exception for letter heights of 29" and 24 " due to the thin stroke of the letters and being located 300' from Midway road. June 2001
7. Dunhill Property Management was granted an exception to place four murals, 81 Sq. Ft. each, on the south façade and five murals, 75 Sq. Ft. each, on the west façade of Suite 840 at 5100 Belt Line Road. These murals were considered signage but were approved because they were not deemed to be a blight or offensive. October 2001
8. Gilbert's Delicatessen Restaurant located at 4930 Belt Line Road Suite 100 was granted an exception for letter heights of 24", 22" and 20" due to a set back of 278' from Belt Line Road. March 2001

9. Hilton Garden Inn located at 4090 Belt Line Road was granted an exception for letter heights of 22" due to a set back of 355' from Belt Line Road. June 2002.
10. Isotag located at 4355 Excel Parkway Suite 100 was granted an exception for an attached sign with a logo height of 31.5 " and letter heights of 25" due to to a setback of 120' from Excel Parkway. July 2002.
11. BJ's Restaurant located at 4901 Belt Line Road was granted an exception for attached signs with letter heights of 39", 28", and murals with figures 8' and 9' in height. The signs were 110', 163', 135' and 143' respectively from Belt Line Road. December 2002.
12. Chip's Old Fashioned Hamburgers located at 4950 Belt line Suite 190 was granted an exception for an attached sign with letter heights of 30" due to a set back of 250' from Belt Line Road. April 2003.
13. Sigel's Liquor located at 15003 Inwood Road was granted an exception for an attached sign with letter heights of 24" due to a setback of 93' to 100' from Inwood Road. June 2003.
14. Two Rows Restaurant located at 17225 Dallas Pkwy was granted an exception for attached signage with letter heights of 30" due to setbacks of 110' from Dallas Pkwy and 147' from Addison Rd. July and September 2003.
15. Vartec Telcom/ Excel located at 16675 Addison Rd. and 4550 Excel Pkwy was granted an exception for attached signs with logo heights of 48" at 16775 Addison Rd. due to setbacks of 160' Excel Pkwy and 145' from Addison Rd. and logo heights of 36" at 4550 Excel Pkwy due to a setbacks of 95' and 105' from Excel Pkwy.
16. Pot Belly Sandwich Works located at 4945 Belt Line Rd was granted an exception for attached signs with letters 30" in height due to a setback of 95' from Belt line Rd. They were not, however, allowed any area increases. Nov 2003.
17. Mama Fu's Noodle House located at 3711 Belt Line Rd was granted an exception for attached signs with letters 30" in height due to a setback of 115' from Belt Line Rd. Jan 2004.
18. Addison Walk located at 5000 Belt Line Rd was granted an exception for attached signs with letters 36", 30" and 24" in height due to setbacks of 100' to 179' from Belt line Rd. Jan 2004.
19. Authentix was granted an exception for an attached sign with letters 28', 25" and 21.5" in height due to a setback of 120' from Excel Parkway. Feb 2004.
20. Champps Restaurant was granted an exception for attached signs with letters 35", 28", 32.5" and 26" in height due to setbacks of 168' and 133' from Belt Line Rd. Mar 2004.
21. Pot Belly Sandwich Sandwich Works located at 4945 Belt line Rd was granted an exception for attached signs with letters 30" in height due o a setback of 95' from Belt Line Rd. May 2004.

Addison!

Application for Meritorious Exception to the Town of Addison Sign Ordinance

South Elevation

Using Wachovia's Corporate Standards
to lettering will be too small to read

Date Fees Paid 11-1-04 Check # 19595 Receipt # 20611



This is what the signage would like per Code



Proposed Signage

Exhibit 4
showing F and G



Entrance Signage—Linear Lockup on Wall over Parking Garage and Parking for Wachovia only signs



Architectural Graphics, Inc.
2655 International Parkway
P.O. Box 9176
Virginia Beach, VA 23450
(757) 427-1800

Project Title
**WACHOVIA - ADDISON
SPECTRUM BLDG.**

Sign Type
**LOGO & LETTERS
NON ILLUMINATED**

Drawing Type
DETAILS

Date 09.20.04

Lead Draftsman AK

Drawn By TLM

Project Mgr. D. EASTON

General Sign Specifications

☐ Interior ☒ Exterior
☐ Single Faced ☐ Double Faced
☐ Illuminated ☐ Non-Illuminated

☐ 120 Volts _____ Amps(A-/-)
☐ 277 Volts _____ Amps(A-/-)
☐ 0 Volts _____ Amps(A-/-)
☐ V/A Listed ☐ Non V/A Listed

Drawn By _____

Checked By _____

Date _____

Signature _____

Date _____

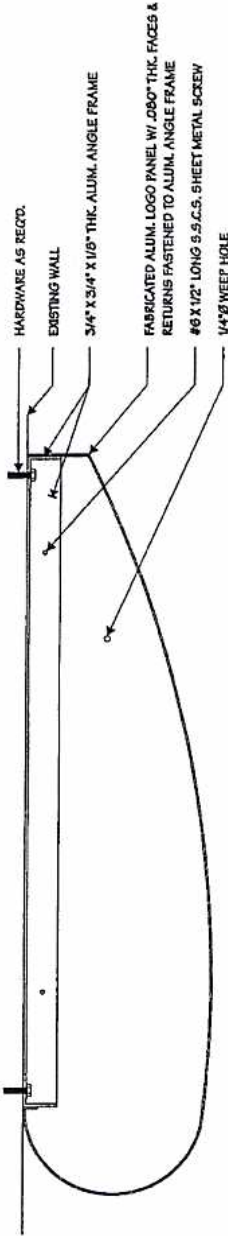
Company _____

Code _____

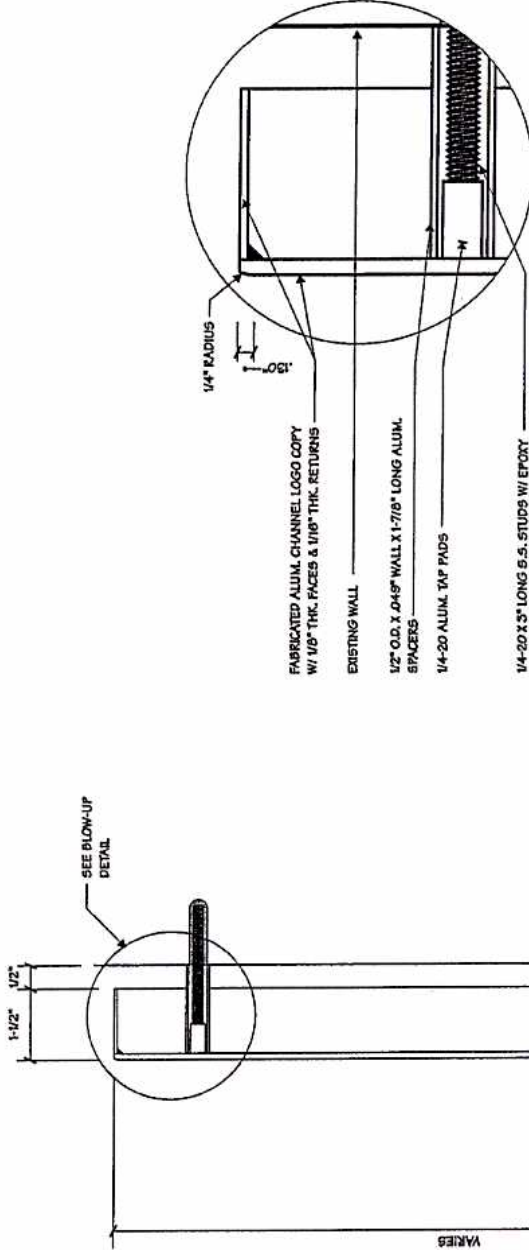
Job Number **XXX**

Sheet Number **LLNI-3**

100. Architectural Graphics, Inc. and its divisions, subsidiaries, affiliates, and employees, shall not be held responsible for any errors or omissions in this drawing. The user of this drawing shall be responsible for its proper use and for any errors or omissions in this drawing. The user of this drawing shall be responsible for its proper use and for any errors or omissions in this drawing. The user of this drawing shall be responsible for its proper use and for any errors or omissions in this drawing.



1 PLAN SECTION - LOGO
LLNI-3 SCALE 3/16" = 1"



3 BLOW-UP DETAIL
LLNI-3 SCALE FULL

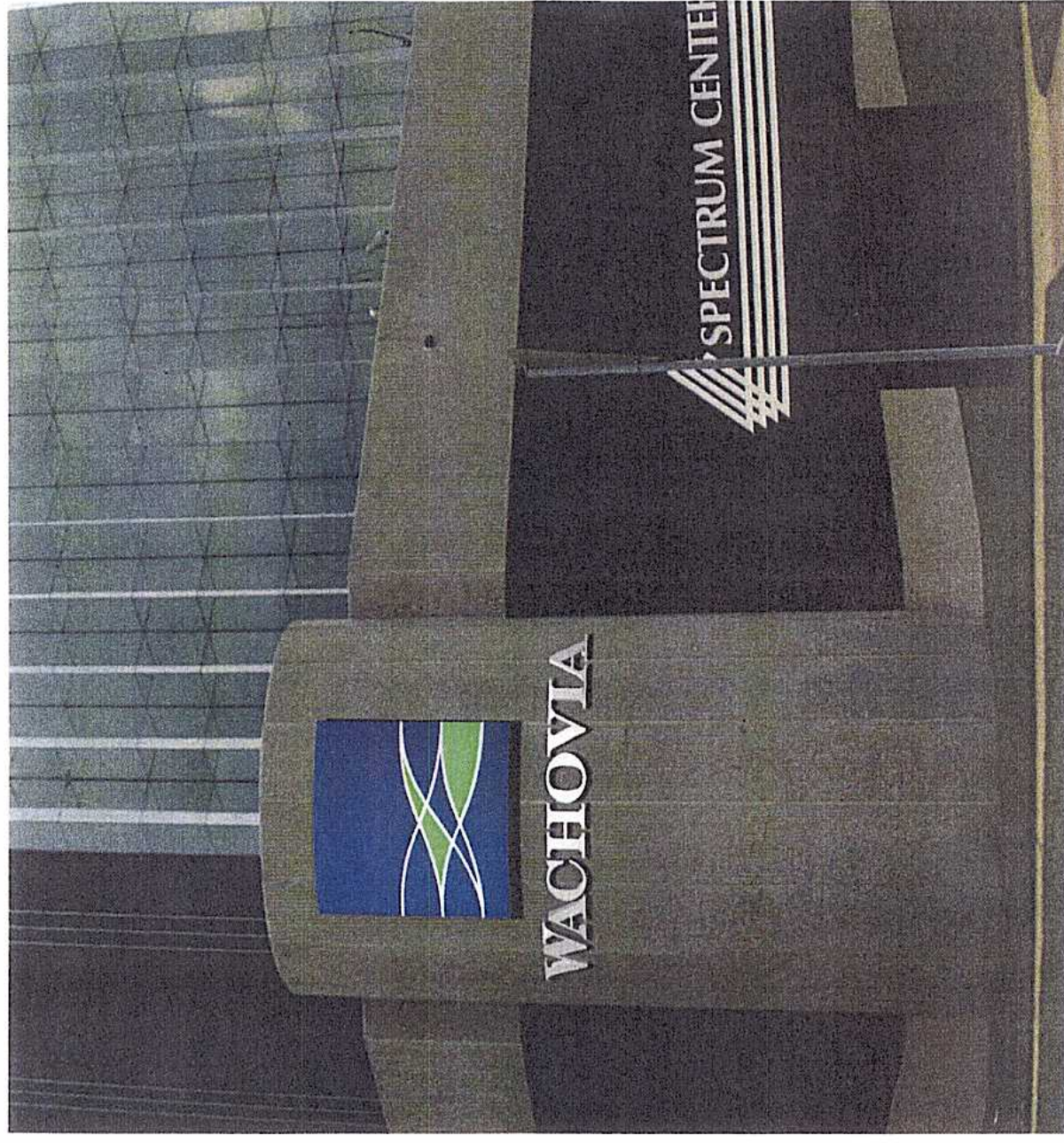
2 SIDE SECTION - FABRICATED LETTER
LLNI-3 SCALE 3/8" = 1"

This is what the signage would like per Code



Proposed Signage

Exhibit 3
showing C



Southeast Corner "Turret" Signage



Architectural Graphics, Inc.
2655 International Parkway
P.O. Box 9175
Virginia Beach, VA 23450
(757)427-1900

Project Title

WACHOVIA - ADDISON
SPECTRUM BLDG.

Sign Type

RADIUS LOGO & LETTERS

Drawing Type

ELEVATION

Date 09.20.04

Lead Drafter AK

Drawn By AK

Project Mgr. D. EASTON

General Sign Specifications

☐ Interior ☐ Exterior
☐ Single Faced ☐ Double Faced

☐ Non-Illuminated
☐ Illuminated

☐ 120 White ☐ Ampco(4/3)

☐ 277 White ☐ Ampco(4/3)

☐ UL Listed ☐ Non UL Listed

Drawn By

Date

Checked By

Date

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Signature

Date

Company

Code

Job Number

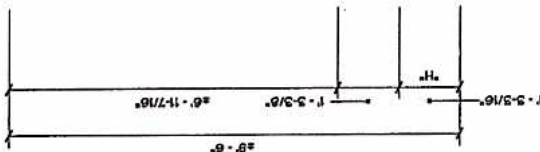
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Sheet Number

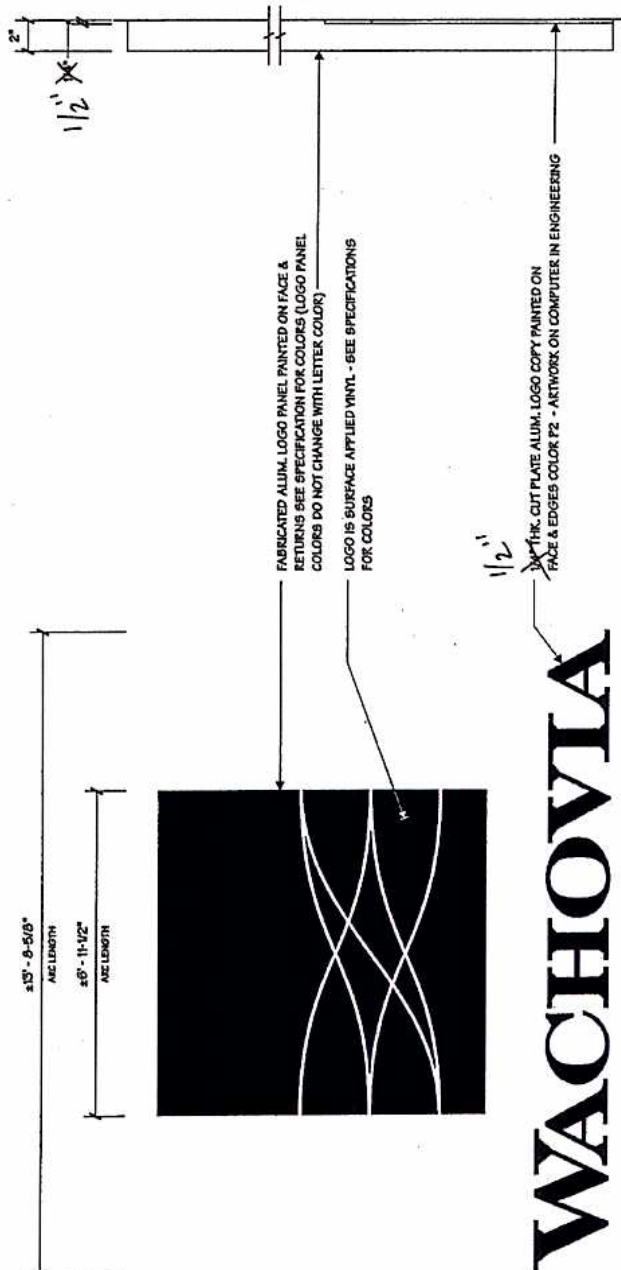
RLL-1



1 PLAN VIEW
RLL-1 3/8" = 1'-0"



2 FRONT ELEVATION
RLL-1 3/16" = 1'-0"



3 SIDE VIEW
RLL-1 1/8" = 1"



Architectural Graphics, Inc.
2505 International Parkway
P.O. Box 8175
Virginia Beach, VA 23450
(757)427-1900

Project Title
WACHOVIA - ADDISON
SPECTRUM BLDG.

Sign Type
RADIUS LOGO & LETTERS

Drawing Type
STRUCTURAL ELEVATION

Date 08.20.04

Lead Drafter AK

Drawn By AK

Project Mgr. D. EASTON

General Sign Specifications

☐ Interior ☐ Exterior

☐ Single Faced ☐ Double Faced

☐ Illuminated ☐ Non-Illuminated

☐ 120 Volts ☐ 277 Volts

☐ Amps 4-7 ☐ Amps 4-7

☐ UL Listed ☐ Non UL Listed

Drawn By Date Checked By

Signature

Date

Company

Code

Job Number

Sheet Number

XXX

RL-2

100'-0"

100'-0"

100'-0"

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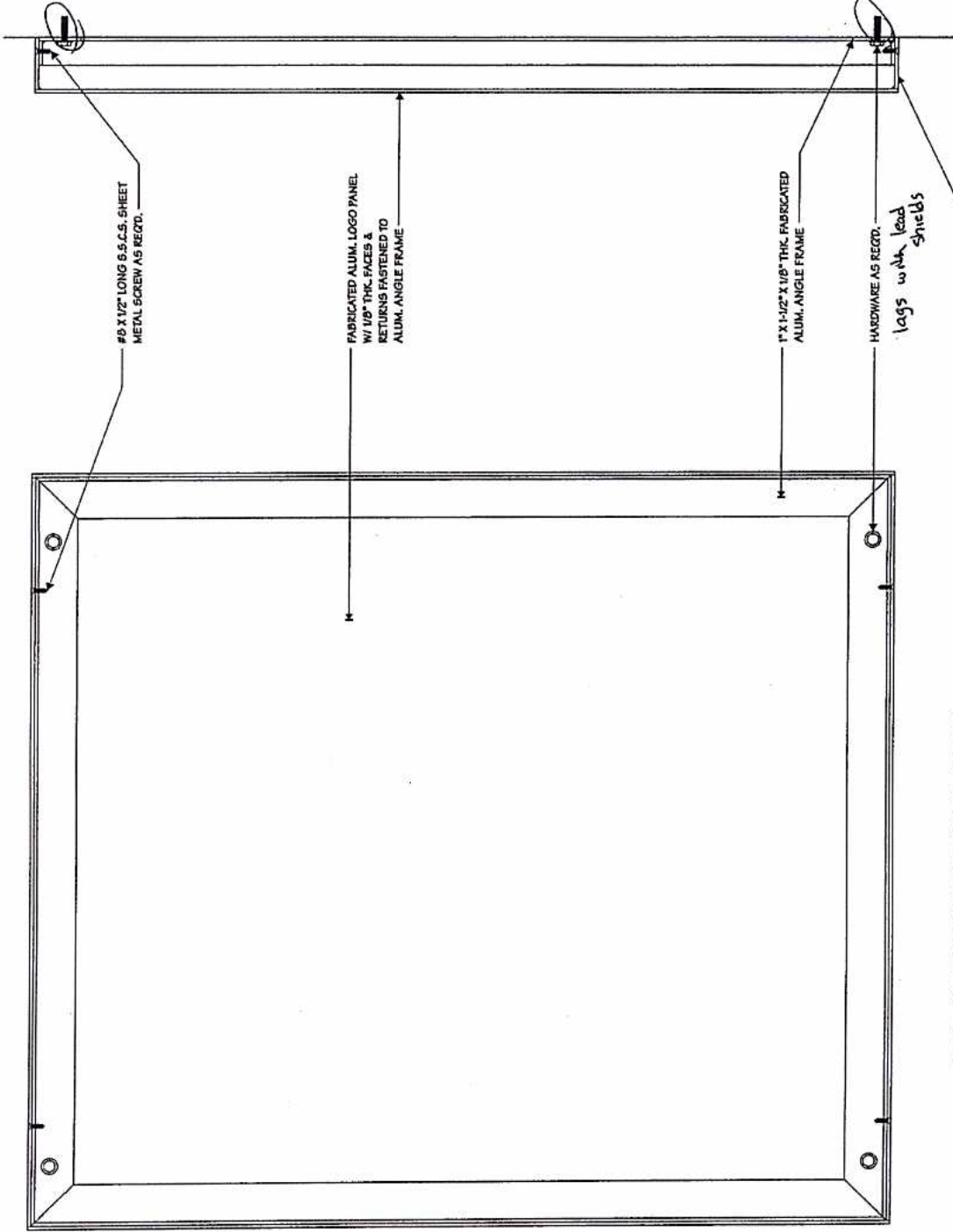
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100'-0"

100'-0"

100'-0"

100'-0"



1 STRUCTURAL ELEVATION - LOGO
100'-0"

2 SIDE SECTION - LOGO
1/4" = 1"



Architectural Graphics, Inc.
2051 International Parkway
P.O. Box 9775
Virginia Beach, VA 23459
(757)427-1900

Project Title

WACHOVIA - ADDISON
SPECTRUM BLDG.

Sign Type

RADIUS LOGO & LETTERS

Drawing Type

SIDE SECTION

Date

09.20.04

Lead Drafter

AK

Drawn By

AK

Project Mgr.

D. EASTON

General Sign Specifications

☐ Interior ☐ Exterior

☐ Single Faced ☐ Double Faced

☐ Non-Illuminated

☐ Illuminated

☐ 120 Volts ☐ 277 Volts

☐ Amps(4/-) ☐ Amps(4/-)

☐ UL Listed ☐ Non UL Listed

Drawn By

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Checked By

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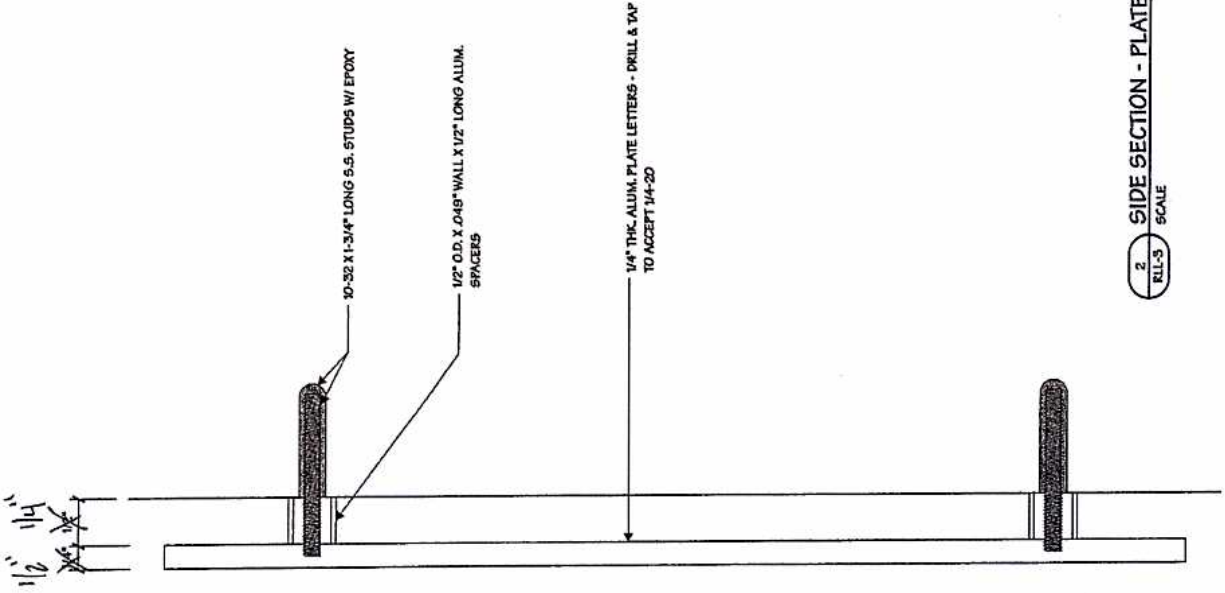
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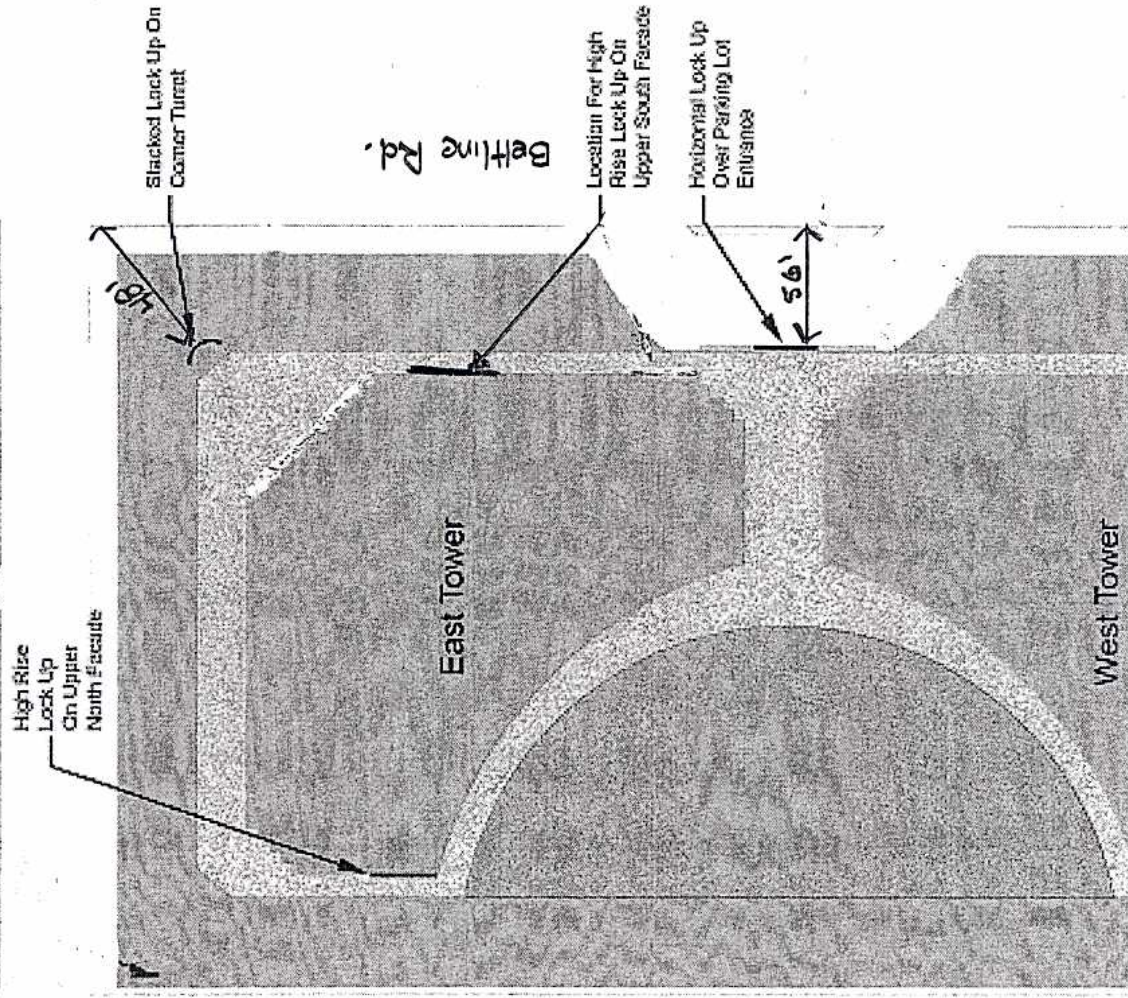
Date



2 SIDE SECTION - PLATE LETTER
RLS-3 SCALE 3/4" = 1'

Index:

Dallas North Tollway (South Bound) →



Council Agenda Item: #R10

SUMMARY:

Resolution authorizing the City Manager to enter into an advertising contract with the Dallas Morning News to purchase 26 insertions in the Friday Guide.

FINANCIAL IMPACT:

Funds were budgeted in the FY05 Marketing Budget. The cost for each insertion is \$4942. The total cost for the 26 insertions is \$128,492.

BACKGROUND:

Eric Terry of Xelerate group was able to negotiate a special rate with the Dallas Morning News that ensures that the Town is guaranteed placement on page3 of the Friday Guide 26 times a year. The rate that he negotiated is substantially less than what the Town typically pays for advertising in the Friday Guide.

Staff worked with Krause Advertising to develop a template that enables the Town to showcase the dining, entertainment and special event activities that are occurring in Addison. Staff believes the consistency and frequency of such advertising will keep Addison “top of mind” when considering dining, entertainment and hotel options, as well as brand Addison as the place to be.

RECOMMENDATION:

Staff recommends approval.

The Dallas Morning News

DISPLAY Advertising Contract

Contract
Date 9/22/04

☐ Preprints ☒ ROP ☐ Neighborhood Shopper ☐ Turnkey Insert

Town of Addison represented by Xelerate Group and Tibbets Media

#03281100

Hereinafter referred to as Advertiser hereby contracts with *THE DALLAS MORNING NEWS* for consumption of not less than

26 times (twenty six times) Page 2/3 Full page \$84.80 per column inch
of advertising, through the use of display advertising in The Dallas Morning News, to be published within twelve (12) months, such advertising to pertain solely to the business of the Advertiser as now conducted, for which the Advertiser agrees to pay at the office of The Dallas Morning News at Dallas, Texas, in accord with the attached schedule of rates. The term of this agreement is for the period beginning September 19, 2004 and ending September 18, 2005.

The Dallas Morning News will provide Advertiser with monthly revenue updates summarizing the advertising revenue spent by Advertiser.

If during the Contract Period, Advertiser does not achieve the contracted frequency level specified above, Advertiser will be billed and agrees to pay the difference between the amount billed at the discounted rate for the contracted frequency level and amount that would have been billed at the rate for the actual frequency. For example, if the contracted frequency level is 13 times and Advertiser's actual frequency is 7 times, Advertiser would be charged the difference between the discounted rate charged at the 23 time level and the rate charged for the 7 time level based upon actual advertising volume. Such amount will be due and payable immediately upon receipt of the invoice.

The Dallas Morning News may, during the term of this Agreement, offer different discount programs, designate new Dollar Volume Levels and frequency requirements for advertising. These changes will not be applicable to this Agreement. Rather, the rates and discounts described in this Agreement will apply to the entire Contract Period, except as provided in the Further Conditions attached hereto. In the event any tax is imposed on advertising, Advertiser agrees to pay all such taxes, fees and surcharges.

This Agreement and the attached Further Conditions represents the only Agreement between the parties and may not be modified except in writing signed by both parties. Upon termination of this Agreement, the terms of this Agreement will not be renewable except by written agreement of the parties. The Dallas Morning News is under no obligation to provide the same discount programs or to continue any discounting upon termination of this Agreement.

Upon expiration of the contract term specified above, the contract will continue on a month-to-month basis at Publisher's then current advertising rates. Either party may terminate the month-to-month contract with thirty days' written notice to the other party.

The Display rates of Publisher are based upon the volume or number of inches used by its advertisers. The rates specified herein are to apply only in the event the number of insertions contracted for is used by the Advertiser. An insertion refers to advertising space used on a specific day. Multiple advertisements used in one day are considered one insertion.

The entire contract is expressed on the face hereof and in the additional Further Conditions attached hereto and no verbal agreements, provisions or conditions exist with respect thereto.

Signed:

The Dallas Morning News
508 Young Street
Dallas, TX 75202-4808

Town of Addison
Addison, TX 75001

BY: _____

BY: _____

NAME: Michelle Peaden

NAME: _____

TITLE: Account Executive

TITLE: _____

DATE: _____

DATE: _____

FURTHER CONDITIONS OF THIS CONTRACT

1. The Publisher reserves the right to edit or reject any advertising tendered under this contract.
2. Payment by Advertiser must be made in Dallas, Texas, and shall be made not later than the 15th of the month for space billed in the preceding calendar month. The Publisher and Advertiser agree that this contract is performable in Dallas County, Texas. Any amount not paid in full by the due date will be considered overdue and incur interest at a rate of 1.5% per month or the maximum amount permitted by law, whichever is less.
3. The rates of Publisher as set forth in this Agreement are based upon an assumed classification for the advertising being placed. If at any time the Publisher determines that the advertising being placed does not qualify for the rates set forth, then Publisher shall notify Advertiser that any further inserts run pursuant to this agreement shall be run at a revised rate. Advertiser agrees to pay to Publisher the revised rate for any insertions run after Advertiser has received notice that the rate has been revised and has been advised of the amount of the revised rate. If the advertiser chooses not to pay the revised rate, then the Advertiser must so advise Publisher before any additional insertions are run. If the Advertiser gives notice to Publisher that Advertiser will not pay the revised rate, then this Agreement shall be terminated and the parties shall have no further liability to each other except for amounts owing for advertising run prior to Publisher's receipt of such notice from Advertiser. Upon contract termination, all advertising will be billed at the appropriate rate card rates.
4. Advertisements are to be inserted in accordance with the Publisher's rules of composition, position, and shape.
5. If the Advertiser specifies position, then the Advertiser agrees to pay the rate for such specific position provided the desired position is available. The Publisher does not agree to accommodate a request for a specified position. If a specified position requested by an Advertiser is not available, then the Publisher may position the copy in any position according to the Publisher's rules of composition, position and shape unless the Publisher is notified in writing by the Advertiser that the copy is to be printed only in the specified position and the Advertiser agrees to pay the applicable rate of any copy printed in other than the specified position.
6. In the event the Advertiser fails to make payment as agreed, the Publisher and Advertiser agree that Publisher may at any time discontinue the advertising of Advertiser and cancel this contract. Cancellation of the contract shall in no way affect the obligation of the Advertiser to pay amounts due at the time of cancellation.
7. In case of omission or error in an advertisement as presented, the Publisher shall not be liable for damages, but in such event the Advertiser's sole remedy shall be that the Advertiser shall not be liable for the entire cost of the advertisement. The publisher will determine the % of effective cost due to error and reduce the entire cost of the ad by this % amount. Publisher is the sole judge.
8. Advertising running consecutively will be carried until new copy is furnished or the advertising is ordered suspended. All orders changing copy or suspending an advertisement must be made in writing.
9. While this contract is in effect, should any conditions arise which affect the cost of newspaper operation such as, imposition by the Government of a sales tax or increased material or production costs, the Publisher reserves the right to increase the advertising rates named on the reverse side hereof or incorporated, herein by reference. In such event, however, the Publisher must give the Advertiser at least thirty (30) days' notice thereof and if such increase is not satisfactory to the Advertiser, then the Advertiser shall have the privilege of canceling this contract.
10. Advertiser represents and warrants that the material provided by Advertiser for publication in accordance with this Agreement is true, accurate, and correct. Advertiser agrees to indemnify and hold harmless Belo and its directors, officers, agent and employees against and from all claims, exposure, liability, loss, or damage, including reasonable attorney's fees, alleged to be caused by or arising wholly or in part out of the publication of advertiser's material hereunder.
11. This contract made and entered into under Publisher's current published schedule of rates in effect on the date hereof, and by reference such schedule is expressly made a part hereof. Advertiser assumes responsibility for acquainting Advertiser with such current published schedule of rates and Advertiser agrees that Advertiser shall be deemed to know such current published schedule of rates.
12. Advertiser agrees to submit to Publisher in writing, all claims of errors in the statement of account submitted by Publisher within thirty (30) days of billing date. All such claims not submitted shall be considered waived.
13. In the event that Publisher's form "Application for Credit" has been completed and submitted by Advertiser in connection with this contract, Advertiser warrants that the information contained therein is true and correct, and agrees that the making of any false statements therein constitutes a material breach of this agreement.
14. Any Application for Credit executed by Advertiser is hereby made a part of this Contract and incorporated herein fully by reference.
15. The Advertiser, and the person signing in Advertiser's behalf if any, warrants they have the authority to make and sign this agreement.
16. The Advertiser agrees to assume liability for and make payment for all advertising published pursuant hereto in the event the Advertiser's business is sold, merged or otherwise transferred, until such time as a contract is entered into between Publisher and the new owner.
17. Space contracts and frequency contracts are automatically renewed for successive periods of one (1) year rates in effect at time of renewal. Either party may decline such renewal by written notice to the other thirty days prior to the expiration date of the current contract. One-time frequency contracts will not be renewed automatically.

Council Agenda Item: #R11

SUMMARY:

Staff requests approval of a resolution authorizing the execution of an Interlocal Agreement with government entities utilizing the DemandStar online purchasing system.

FINANCIAL IMPACT:

The Town does not pay a fee to be a member of the DemandStar system. Approval of the resolution has no financial impact, since it allows the Town of Addison to “piggy back” on bids developed by other cities.

BACKGROUND:

The Town of Addison currently utilizes the online services of DemandStar for formal bids and proposals. DemandStar serves as a clearinghouse for government bids. Participating governments post their bid items or proposals on the company’s web site and participating vendors receive e-mail notices that bids are being solicited for their type of service or manufactured items. The Town of Addison joined the DemandStar system in August 2000.

The Town of Addison is able to be a member of the cooperative purchasing group, such as DemandStar, pursuant to Texas Government Code, Chapter 791.025 and Texas Local Government Code, Subchapter F, Section 271.102.

The primary benefit of the DemandStar system is improved communication between the Town of Addison and potential bidders. An additional benefit is the ability of participating agencies to utilize the bids of other entities in the DemandStar system. As such, this interlocal agreement will formally allow the Town of Addison to purchase goods and services that have already been competitively bid by another governmental entity in the DemandStar System. As an example, it takes staff an estimated twenty hours to bid a service such as mowing due to time needed to develop bid specifications, advertise the bid, conduct a pre-bid meeting and prepare all contract and bid documents. By using another city’s bid, Addison would save both staff time and the cost to advertise, yet still satisfy the legal requirements to bid this service.

Cities in the North Texas area that are currently a member of the DemandStar system include the cities of Allen, Arlington, Carrollton, Coppell, Flower Mound, Fort Worth, Frisco, Garland, Grand Prairie, Hurst, Irving, Lewisville, McKinney, Mesquite, Plano, Richardson, Rowlett and University Park. In addition, the Dallas Independent School District and Carrollton-Farmers Branch Independent School Districts are also members.

RECOMMENDATION:

Staff recommends approval of the attached resolution.

RESOLUTION NO. R _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE GOVERNMENT ENTITIES THAT ARE USING THE DEMANDSTAR SYSTEM AND THE TOWN OF ADDISON FOR THE PURPOSES OF THE PURCHASING GOODS AND SERVICES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the government entities that are using the DemandStar System (hereinafter called “Users Group”), including the Town of Addison, is composed of local governments engaged in the purchase of goods and services, which is a recognized government function; and

WHEREAS, User Group participants and the Town of Addison wish to enter into an Interlocal Agreement pursuant to Chapter 791.02 of the Texas Government Code and Texas Local Government Code, Subchapter F, Section 271.02 to set forth the terms and conditions upon which User Group participants and the Town of Addison may purchase various goods and services commonly utilized by each entity.

WHEREAS, participation in a cooperative purchasing program such as DemandStar System is highly beneficial to the taxpayers of the User Group participants and the Town of Addison through the savings realized and is of mutual concern to the contracting parties. Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. User Group participants and the Town of Addison will cooperate to provide a program for the purchase of various goods and services commonly utilized by all participants, where available and applicable, and under such program may purchase goods and services from vendors under present and future contracts.

Section 2. User Group participants and the Town of Addison will enter into individual contracts with vendors. User Group participants and the Town of Addison shall each be individually responsible for payments directly to the vendor and for the vendor’s compliance with conditions of delivery and quality of purchased items under such individual contracts. User Group participants and the Town of Addison shall each make their respective payments from current revenues available to the paying party.

Section 3. The City Manager is hereby authorized to do all things necessary to execute and enter into this interlocal agreement.

Section 4. That this Resolution shall be in full force effective from and after its passage and approval.

PASSED AND APPROVED this 26^h day of October, 2004.

Scott Wheeler, Mayor
Town of Addison

ATTEST:

APPROVED AS TO FORM:

Carmen Moran, City Secretary

Ken Dippel, City Attorney

Council Agenda Item: #R12

SUMMARY:

Council approval is requested for the purchase of (3) 2005 3/4 Ton Trucks, and (2) 1 Ton Trucks, under the Town's Inter-local Agreement with the Houston-Galveston Area Council (HGAC).

FINANCIAL IMPACT:

Capital Equipment Replacement Fund - Budgeted Amount:	<u>\$ 63,000.00</u>
(Three vehicles)	Cost: <u>\$ 54,719.00</u>

Airport Fund - Budgeted Amount:	<u>\$ 60,600.00*</u>
(One Vehicle)	Cost: <u>\$ 19,700.00</u>

* Budget also includes funding for other equipment not included in this purchase.

Utilities Fund - Budgeted Amount:	<u>\$ 20,000.00</u>
(One Vehicle)	Cost: <u>\$ 19,756.00</u>

BACKGROUND:

HGAC issues request for bids for vehicles and equipment every year and receives extremely competitive prices because of the large volume of purchases the council generates. In the past, the prices received from HGAC have been 25% below the manufacturer's suggested prices.

State statute exempts the Town from formal bid requirements when purchasing through the Inter-local Agreement with HGAC.

The three ¾-ton trucks are for the Airport, Streets, and Utilities departments. The Airport vehicle is an additional vehicle to the Airport fleet and will be used in a heavier service vehicle capacity. The Streets vehicle replaces a current 1998 ¾-ton truck, and the Utilities vehicle replaces a 1995 ¾-ton truck both of which have reached the end of their useful life. The two 1-ton trucks are for the Parks and Streets departments and replace two 1998 1-ton trucks in both departments that have each reached the end of their useful life.

There are sufficient funds in the Capital Equipment Replacement Fund, Airport Fund and Utilities Fund to cover the total recommended expenditure of \$94,175.00.

RECOMMENDATION:

Staff recommends the Council approve the purchase of the vehicles from HGAC.

Council Agenda Item: #R13

SUMMARY:

Council's authorization is requested for the City Manager to enter into a contract with ZOLL Data Systems for a patient record management system.

FINANCIAL IMPACT:

\$380,100 is budgeted in the Information Technology Internal Service Fund in FY05 for public safety systems.

BACKGROUND

The existing MDTs, Mobile Data Terminals, were purchased and installed in 1999 during the implementation of the Public Safety system. Both police officers and fire paramedics use these devices to communicate with dispatch and the department of Public Safety in Austin. Because of the nature of the business these devices are scheduled to be replaced more frequently than usual, every three (3) years. IT staff replaced the police cruisers MDT devices in January of 2003; however, due to the **Health Insurance Portability and Accountability Act (HIPAA)** of 1996 that has brought significant changes to the management of health information we postponed the purchase of MDT devices for the Fire department until an acceptable patient management system was identified.

Due to the technical requirements and a limited number of responsible bidders, management made the decision not to release a Request For Proposal for the purchase of these devices. ZOLL Data System has a solid reputation of designing Electronic Patient Data system for mobile use in fire and medical vehicles and is the recommended vendor for this purchase. A memorandum from Chris Kellen explaining the merits of the ZOLL Data System is attached. In addition, attached is information regarding the software and licensing maintenance agreements.

ZOLL Data System offers Rescuenet Field Data Software, which allows for comprehensive Quality Assurance and Improvement management on all patient records. The system's unique data analysis features provide both high-level, organization-wide data for senior management as well as very detailed management data for operations managers. Rescuenet Field Data Software also has data drill down functionality that is unique in the EMS industry. Other organizations using the Rescuenet Field Data Software include the City of San Antonio and City of Lewisville as well as Scott and White Hospital and Care Flight Ambulance.

Because Rescuenet Field Data Software is able to import data directly from the CAD (Computer Aided Dispatch) system as well as medical devices, such as the Physio defibrillators, all information related to a given patient encounter can be stored in one server. The time, energy and resources required analyzing and producing operational reports from this 'collective' database are a fraction of that required for a paper system, or for many alternative electronic patient record systems.

Paramedics require an easy-to-use interface that facilitates rapid and accurate data capture. The Rescuenet Field Data Software finger touch-screen interface is designed to meet that need. With a simple finger touch, critical data is captured in the electronic patient care report.

From an operations perspective, the Rescuenet Field Data Software goes beyond "no negative impact on existing performance". The Rescuenet Field Data Software demonstrates measurable benefits that have the potential to contribute positively to operational efficiency and effectiveness.

Fire Department staff have estimated operational cost savings resulting from early efficiency gains resulting from better use of administrative resources as billing, verification and state reporting functions are automated. Other exciting opportunities for gains are in higher billing acceptance rates and faster turnaround of run tickets for billing, both of which translate into improved revenue performance, and the potential to speed ambulance turnaround.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into a contract with ZOLL Data System in the amount of \$52,000 subject to final review & approval of the Town attorney's office.



Memorandum

To: Lea Dunn, Deputy City Manager
Cc: Noel Padden, Hamid Khaleghipour
From: Chris Kellen, Division Chief
Date: 3/05/2004
Re: Rescuenet Field Data

Never in its history has the fire service been required to spend such an inordinate amount of time, resources, and training to not only become compliant with state and federal mandates, but to ward off litigation resulting from services provided. In a growing litigious environment, the Addison Fire Department has maintained our excellent level of service, but at tremendous cost. From the origination of a call for service, to the delivery of required emergency services, to the completion of all required documentation, our personnel are tasked with unnecessary and laborious record keeping. Local and national fire and emergency medical service trends are moving towards complete, or near complete, paperless environments. This trend provides necessary and required security options for patient documentation, more expedient billing, and allows previously laborious, time-consuming tasks to be completed in a much more time efficient manner. The timesavings alone allow numerous options for additional training or personal development. More importantly, the Rescuenet Field Data system provides for exceptional data security, legal compliance, and data storage capabilities now and into the unforeseeable future.

In 2003, the Addison Fire Department responded to over 1,300 EMS calls and spent over 2,217 hours completing the documentation currently required. The documentation, review, filing and billing of each EMS call took approximately 1 hour and 42 minutes from start to finish at a cost to the Town of an average of \$33.00 per call. This resulted in personnel-related costs of over \$43,000 for the year. These figures do not reflect operating and supply-related expenses. With Rescuenet Field Data, however, the average time spent to complete these processes will be reduced to roughly 20 minutes at

an estimated cost of \$7.50 per call, or \$9,800 per year. In short, the Rescuenet Field Data product will reduce the time and money the Town is currently spending for completion of these required tasks by one fifth.

In the year 2003, the Addison Fire Department was scheduled to replace the mobile data terminals in each of its apparatus. However, in anticipation of moving to a paperless, electronic system that could be better utilized with portable, more durable computers, it was decided to hold off on replacing these computers until which time as research, approval and implementation of a new, more efficient system could be attained.

Rescuenet Field Data's electronic patient data record system will greatly benefit the fire department by allowing for the following:

- Less time spent per call
- Improved records management
- Simplification of the Quality Improvement/Quality Assurance (QI/QA) process
- Drastic reduction in data entry
- Increase in collections
- Reduction in turn-around time for billing and collections
- Compliance with federal HIPAA regulations
- Reduction in liability

Currently, the Fire or EMS call is received in dispatch and sent to the fire department via radio and to computers in the apparatus electronically. Information concerning the call, including any known hazards, appears on computers permanently mounted in the apparatus. This same information is also sent to a printer located in the fire station, and a "rip and run sheet" is generated so that personnel will have a hard copy of the call information to take with them on the call. The computers in the apparatus are not linked to Tiburon's EMS Run Report System and are not capable of being utilized for patient data entry while on the call.

While on the scene, all incident call times, patient demographics, medical information, assessments, treatments and drug therapy are hand-written on a patient run form during the call. All patients must sign the federally required HIPAA form. While en route to the hospital, the paramedic continues to manually add information to the form while at the same time performing patient care. Upon arrival at the hospital, the ambulance crew releases the patient into the care of emergency room staff, gives an oral report to the staff, completes the written run record, along with any copies of the EKG from the Lifepak 12 heart monitor, and leaves a copy with the patient's hospital chart prior to returning the ambulance to service.

The Addison Fire Department currently uses a computer-based program from Tiburon Reporting System to document every EMS call. This program consists of approximately ten separate screens / pages and a narrative section. Here, paramedics fully document all of the required patient and call-related information. Upon returning to the fire station, the crew basically starts over by using the written patient run form as a reference for entering the entire call-related information into the Tiburon Reporting System database.

After the call is entered into the computer, in order to comply with federal HIPAA regulations, the written run sheet is placed in a sealed envelope and then submitted to the shift captain. The shift captain then checks the run sheet for completeness and accuracy before forwarding the document to the fire department secretary.

The fire department secretary receives the written run sheets and completed HIPAA forms through inter-office mail within several days. The forms are then sorted and alphabetized with a copy kept on file at the fire station and another sent to Finance. The HIPAA forms are reviewed, and if the patient was unable to sign the form at the time of the incident, the secretary makes a record of this by logging this information into a database. A consent form letter is then generated for the patient, and a package containing the consent letter, the HIPAA form, and return postage is mailed to the patient. Once the patient mails this information back, the signed HIPAA form is documented in the database, and all information is appropriately filed. All EMS records of patients that are twelve months and under must be kept indefinitely. Minor's records must be kept until the patient is eighteen years of age, and all other patient records must be kept for a period of six years.

The Addison Fire Department has a Quality Improvement/Quality Assurance (QI/QA) Program that provides a means of monitoring response times, patient care, and proper application of protocols. The QI/QA program is a requirement for fire department personnel in order to maintain their state paramedic certifications. In addition, the program provides invaluable feedback and helps ensure that paramedics are administering appropriate care. The shift officer reviews every EMS call by logging into the Tiburon Reports and completing a QI/QA form, which is then reviewed by the paramedic crew prior to being submitted to the EMS Chief.

The QI/QA documents are reviewed by the shift officer and EMS crew and then forwarded to the EMS/Training Chief within several days. Through the Tiburon EMS computer system, the calls are again reviewed for completeness as well as the proper application of protocols. Thereafter, the QI/QA documents are kept on file for a period of ninety days, at which time they are destroyed. These records are also used to manually track paramedic skills, usage of EMS supplies, types of calls, and number of calls.

Approximately every two weeks, the Finance Department receives a copy of the written run records from the fire department secretary through inter-office mail. They must be alphabetized and copied, and addresses must be manually verified so as to ensure the proper zip code appears on the record. The documents are then sent to our third party billing company located in Corpus Christi, Texas.

How Rescuenet Field Data can Help

The mobile data terminals currently mounted in the apparatus are not part of the Tiburon Records System. Therefore, they cannot be utilized as a tool to complete any part of the report itself. At this time they are strictly used to receive call data and text messages from dispatch and other fire apparatus. Rescuenet Field Data will help streamline the entire EMS run process; starting with the time the call is dispatched. The new rugged tablet PCs will not simply be utilized for call information. The tablets will be portable units, not permanently attached to the apparatus, which can be used throughout the entire EMS call. All information gathered by dispatch concerning the call will be sent in the same manner; however the information will be sent directly to the computer in the ambulance or fire truck and will be automatically downloaded to the actual run sheet record itself. The PC notebook / laptop will be removed from the apparatus, taken by the EMS crew to the patient, where the information will be completed while the call is in progress. Compared to the system presently being used, this has many advantages for the EMS crew. Instead of completing the patient record report after returning to the fire station, the run record is completed during the call, which allows for a much more accurate record of the event. It also allows for more accuracy in recording times, treatment, and therapy, which are all critical to proper documentation.

The Lifepak 12 heart monitor that we currently use is a \$25,000 piece of equipment that is capable of performing and recording numerous medical therapies and will interface with the Rescuenet Field Data system. The Lifepak 12 is capable of automatically downloading information such as vital signs, blood oxygen saturation, EKG's, defibrillation, cardioversion, and capnography into the monitor. Fire department personnel will no longer have to manually enter this information. Instead, it will be automatically downloaded into the patient's record.

In addition to these benefits, the PC will be able to store our 364-page medical therapy protocols document. This document is currently located in a notebook in the patient compartment of the ambulance. Storing this document on the PC will enable the EMS crew to refer to the protocols at any time during the call with a simple touch of the screen. This ability will in turn reduce the possibility for improper treatment, thus reducing the Town's liability. A drug reference list can also be included in the PC, allowing the EMS crew to instantly gain access to information on most drugs, including their interactions and contraindications, without having to refer to a book or contact the hospital.

The report will be completed as the call is in progress, and a hard copy of the complete report will be left with the patient record at the hospital before the crew leaves. Leaving a complete report with hospital staff is not currently possible.

One of the most exciting aspects of the Rescuenet Field Data product is how the Rescuenet Field Data product will streamline and consolidate the handling of every aspect of the EMS Run Report from a records management standpoint. Currently the written EMS Run Report must be handled a minimum of six times and sent through inter-office mail and the U.S. Postal Service three times before it reaches the Town's third party billing company. This is a lengthy process that can take up to a month. In

addition, it causes large duplication of effort on the part of all persons involved. With an electronic report, the information is entered directly into the system during the call, and the crew does not have to return to the station to complete the patient report. Errors, omissions, and legibility issues will be reduced through the use of prompts and mandatory fields that can be added to the computer program. Rescuenet Field Data allows the report to be saved directly to the Town's server when the PC is placed into the docking station in the ambulance. Placing the PC into the docking station will permanently save the patient report, making it immediately available in the system to any authorized personnel for any authorized purpose. Authorized personnel may include shift officers, chiefs, the fire department secretary, and certain Finance Department personnel. Authorized use of patient reports may include reviewing them for QI/QA purposes, following up on billing issues, ensuring completion of HIPPA-related information, checking them for accuracy of the mailing address, etc. Patient data can also be directly sent to our billing contractor at the same time, resulting in a much shorter turn around time for collections.

The QI/QA process could also be inherent in the system in the same way, which would ensure that the patient report is complete and in compliance with documentation standards set forth by the department. Shift officers would no longer be required to complete a written QI/QA document. This would result in timesavings for fire department personnel, freeing up time for other important functions such as training and customer service.

The Rescuenet Field Data product will unquestionably enhance the entire EMS reporting system by allowing it to become much more efficient and accurate. In addition, the cost-savings are undeniable. In short, the Rescuenet Field Data system provides for exceptional data security, legal compliance, and data storage capabilities not currently available with our current system.

October 27, 2004

Hamid Khaleghipour
16801 Westgrove RD
Town of Addison, TX 75001

Dear Hamid:

The following letter serves to ensure that ZOLL Data Systems, Inc. and the Town of Addison hold an equal understanding of the following issue as it relates to the proposed contract for an electronic patient care reporting system. Therefore, we request once you have read and fully understand the content of this letter that you sign and date on the line provided below and return it with the licensing agreement.

This proposal includes two separate line items from our custom solutions group, herein referred to as CUI. The first item priced at \$4500 is the interface to allow transference of data from Physio defibrillators to ZOLL Data's Tablet PCR. The second item priced at \$5000 is ½ the cost of the interface from Tiburon's Computer Aided Dispatch system to ZOLL Data's Tablet PCR. As of this date, the remaining cost is to be paid by an existing ZOLL Data Systems desiring similar functionality. This contribution will be confirmed within 48 hours of this letter and communicated directly with the Town of Addison.

The remaining item under custom solutions, herein referred to as CST, priced at \$5000, is the interface allowing the transference of data from the central Tablet PCR's database to the Texas Dept. of Health.

If you have any questions regarding this issue, please call me at (800) 474-4489 [EXT 1813]. Otherwise, please sign on the line provided below and return this letter with the final contract.

Sincerely,

Mickey Dawes
Account Manager

Name: _____ Date _____
Title: _____

MAINTENANCE AGREEMENT

THIS SOFTWARE MAINTENANCE AGREEMENT ("Agreement") entered into this ___ day of ___, between en ZOLL Data Systems, Inc., a Delaware corporation ("Seller"), and _____ ("BUYER").

RECITALS:

A. Seller desires to sell to Buyer and Buyer desires to purchase from Seller computer software maintenance of the RescueNet Computer Aided Dispatch system and/or the RescueNet Billing system and/or the RescueNet Tablet PCR Field Data Collection system for one year from the date of this agreement.

B. Seller and Buyer desire to set forth herein the terms of the sale of Software Maintenance Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are true and correct.

2. Purchase and Sale. Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller software service and maintenance for a one year period through _____ for the RescueNet Computer Aided Dispatch and/or RescueNet Billing and/or RescueNet Tablet PCR Software Products (the "Products") purchased by Buyer on _____.

(a) Seller will maintain a 24-hour customer service "hot-line" for emergency dispatch technical support. Billing and field data collection technical support are excluded from emergency technical support. Emergencies are defined as an inability to use the entire RescueNet Computer Aided Dispatch system for a purpose which the user has an immediate need (e.g. all users unable to login to the system constitutes an emergency versus a single user's inability to login, which does not constitute an emergency because there is an acceptable workaround, login as another user, available). Seller will also maintain business hour response, excluding holidays, for dispatch, billing and field data collection technical support. Seller will provide the telephone number of such hot-line to Buyer on or before the date of Product installation and Buyer may use such hot-line at any time during the warranty period in the event it needs assistance with respect to the Products.

(b) Software enhancements and upgrades are available as part of the Software Upgrade program. This program offers the buyer availability to all software upgrades during the terms of this agreement. Buyer will install any software enhancements and changes (including improvements to performance) which may become available in the course of the Warranty period. If Buyer requires Sellers assistance with the installation of any software enhancements and changes, Buyer must contact Seller to schedule a time and date that is convenient for both parties. Reasonable travel and related expenses associated with any onsite installation and training will be borne by the Buyer.

(c) The parties acknowledge that proper maintenance of the Products during the warranty period may from time to time necessitate a certain amount of

"down-time" of the Products. Services provided hereunder do not assure uninterrupted operation of the Products. However, the parties shall cooperate in using their respective best efforts to minimize such down-time and to arrange for such down-time to occur at mutually convenient times.

(d) Buyer shall provide at its expense and reasonably accessible to the Products, adequate working and storage space and facilities as needed by Seller to provide services hereunder. Buyer shall provide a 56K BPS or faster modem and telephone line interface which shall be accessible to the Seller upon adequate notice to the Buyer. When the need arises, Buyer shall provide Seller or authorized representatives full and free access to the Products. Such access for the computer software may be from primary or remote locations and may be direct or through telephone line access, at the sole discretion of the Seller.

(e) Seller shall not be obligated to provide service at any location other than at which the Products were initially installed. If Buyer desires to relocate the Products, it shall give timely prior notice to Seller and any relocation and resumption of service hereunder with respect to such Products shall be subject to agreement between authorized representatives of the parties.

(f) When Seller performs warranty services which require the use of the computer software or documentation, Buyer shall make it available at reasonable times and for reasonable time increments, and will not charge Seller for such use.

3. Purchase Price. The purchase price for one year of Technical Support of the Products shall be _____ and the yearly cost for the Software Upgrade Program shall be _____. The total yearly cost of both is _____. The price of Technical Support and the Software Upgrade Program are calculated as 10% each (total of 20% for both) of software costs and is subject to increase upon purchase of additional software during the warranty period. All purchase prices quoted here in are exclusive of any shipping charges and sales, use, and other excise taxes which may be applicable. All such charges and taxes shall be the responsibility of and borne by the Buyer. In addition, all purchase prices are exclusive of the costs of travel and related expenses associated with Seller's maintenance of the Products at the Buyer's place of business. All such reasonable costs and expenses incurred by the Seller shall be invoiced separately and shall be reimbursed by the Buyer within 30 days from the date of invoice.

4. Payment Terms. The total purchase price shall be payable in full simultaneously with the execution of this Agreement.

5. Miscellaneous.

(a) Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Seller and Buyer hereby agree to submit to jurisdiction in any such court in the event of any such claim or action. Notwithstanding anything contained herein, any action or claim against any supplier of Seller shall be maintained by Buyer only in a court of competent jurisdiction as set forth in the applicable agreement executed by Seller and such supplier pursuant to such relationship. For purposes of any such action or claim, this Agreement shall be construed in accordance with the laws of such jurisdiction.

(b) Headings. This section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of any or all of the provisions of this Agreement.

(c) Binding Effect; Assignment. This Agreement shall be binding upon and shall inure to the benefit of Seller's and Buyer's legal representatives, successors and assigns. The parties understand that Buyer may collateralize financing to acquire the Products and in connection therewith may assign this Agreement to the lending institution. Accordingly, this Agreement may be assigned by Buyer to obtain such financing. This Agreement may otherwise be assigned by the parties hereto only by written consent of the other party, which consent may not be unreasonably withheld.

(d) Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements, understandings, negotiations and discussions, both written and oral, between the parties hereto with respect to such subject matter.

(e) Amendment; Waiver. This Agreement may not be amended or modified in any way except by written instrument executed by all of the parties hereto. The waiver of any breach or commitment under this Agreement by any party hereto shall not constitute the waiver of any other breach or commitment pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ZOLL Data Systems, INC., a Delaware corporation

By: _____
Authorized Representative

BUYER

By: _____
Authorized Representative

Software Licensing Agreement



ZOLL Data Systems, Inc.
1800 38th Street
Boulder, CO 80301
303.801.0000 Fax: 303.801.1063

Account Manager: Dawes, Mickey
P.O. Number:
Order Date: 08/04/2004
Control No.:
Order Type: Regular Order
Status: Sales Order
Page No: 1 of 1

Bill To: Addison Fire Department
Attn: Khaleghipour
Address: 4798 Airport Pkwy
Addison, TX 75001

Ship To: Addison Fire Department
Attn: Khaleghipour
Address: 4798 Airport Pkwy
Addison. TX 75001

Ship Via: UPS

Item	Description	0.00	Quantity	Unit Price	Ext. Price
EMS Pro					
FAX	Fax Server		1	\$3,500.00	\$3,500.00
SBT	Standard Billing Transfer		1	\$3,500.00	\$3,500.00
BPK	Base Package (Includes one networked license)		1	\$10,000.00	\$10,000.00
MUL	Mobile User License		7	\$2,200.00	\$15,400.00
NUL	User License		3	\$2,200.00	\$6,600.00
Custom Solutions					
CUI	Custom Interface		1	\$4,500.00	\$4,500.00
CUI	Custom Interface		1	\$5,000.00	\$5,000.00
CST	Custom State Extract		1	\$5,000.00	\$5,000.00
Deployment					
PRS	TabletPCR Silver Deploy (price exclusive of travel and expenses)		1	\$3,500.00	\$3,500.00
Discounts					
DISC	Discount		1	-\$5,000.00	-\$5,000.00

Terms

<div><div>\$17,333.33 Due at first deployment site visit \$17,333.33 due net 30 days after final deployment site visit.</div><div>Discount is contingent on payment within the terms outlined on this licensing agreement. If payment is not made within these terms, discount amount will be added to the remaining balance.</div></div>	Subtotal:		52,000.00
	Tax:		Tax Exempt
	Deposit:		17,333.33
	Support:	4,850.00	90 Days Free**
	Software Upgrade Program:	4,850.00	1 Year Free**
Total Contract Price:			52,000.00

No Geo-Data included

No Forms included

* Technical Support and Software Upgrade programs are each 10% of the total software price.
** 90 day free Technical Support and 1 year free Software upgrade periods start upon installation of software.
Customer's signature acknowledges that customer has read and understands the terms and conditions of this agreement or those separately executed.

Agreement expires in 60 days from above date

ZOLL Data Systems, Inc.

Addison Fire Department

Authorized Signature

Date

Fred Funke
Director of North American Sales

Printed Name

GENERAL TERMS AND CONDITIONS

I. AGREEMENT. This Agreement is made by and between ZOLL Data Systems and Customer, as referenced on the reverse of this Agreement (“Customer”) for the license to use the Software product as described herein in consideration of the amount to be paid listed as “Total System Price” on the front of this agreement. The Total System Price may be exclusive of any sales, use, and other excise taxes which may be applicable. All such charges and taxes shall be the responsibility of and borne by the Buyer and may be invoiced to the Buyer separately and at a future date than that of this contract.

II. SOFTWARE LICENSE. This Software consists of copyrighted computer software (“Program”) and a copyrighted user manual (“User Manual”) from ZOLL Data Systems and is comprised of the modules as indicated on the front of this Agreement. This Agreement provides for use of an authorized copy of the Program by Customer. The title and all copyrights and ownership right in the Program and User Manual are retained by ZOLL Data Systems. Customer acknowledges that the Program represents and embodies certain trade secrets and confidential information of ZOLL Data Systems. ZOLL Data Systems grants Customer a perpetual, paid-up, limited non-exclusive license (i) to load licensed copies of the Program into the memory of microcomputers located at Customer’s site (one (1) concurrent central processing unit per user license) as necessary to use the Program. All user licenses under the terms of this agreement must access the same data source (a single database which is the central repository of data for the software). The above license is granted provided that Customer use the software in the nature in which it was intended, as described by the User Manual. All Copies of the Program are subject to the restrictions in this Agreement and all copies must be destroyed if Customer’s continued possession or use of the original copy ceases or this Agreement is terminated.

III. THIRD PARTY SOFTWARE. Third party software may be used in conjunction with ZOLL Data Systems software. It is the responsibility of Customer to ensure that no terms and conditions are being violated in regards to use of such third party software and is Customer’s responsibility to obtain and purchase additional seat and/or user licenses for such third party software as needed. If upgrading to a different version of third party software is needed in order to use certain features of ZOLL Data Systems software or third party software, it is the responsibility of Customer to obtain and purchase third party software version upgrades.

IV. SOFTWARE OBSOLESCENCE. ZOLL Data Systems must, from time to time, make decisions to discontinue support of older versions of its software, third party applications and operating systems. ZOLL Data Systems recognizes that this policy can impact Customer’s operations and makes such decisions only when in the best long-term interest of product progress. Please see the complete Software Obsolescence Policy for details.

V. HARDWARE. Customer may be provided with hardware under this agreement. ZOLL Data Systems Technologies does not provide any warranty for hardware. Please see section XII. LIMITED WARRANTY of this agreement. Customer will ensure that all hardware and networks purchased and maintained by Customer will conform to ZOLL Data Systems’s Hardware Specification document, available on request. ZOLL Data Systems reserves the right to charge for work done to assist customer in configuring and maintain customer’s hardware and network.

VI. SERVICES. Under this agreement, Customer may receive Services such as *RescueNet Mobile Data* and *RescueNet Dispatch Web scheduler* from ZOLL Data Systems Technologies, Inc. Such Services may rely on third-party products to function properly. Please see section XIII. DISCLAIMER of this agreement. Provision of Service provided to Customer by ZOLL Data Systems is dependent on full payment of monies owed to ZOLL Data Systems.

VII. PROGRAM UPGRADES. Customer will receive notices from ZOLL Data Systems of upgrades to the Program, and Customer may discuss with ZOLL Data Systems by telephone, in writing or in person questions about the installation and use of the Program Upgrades. Customer will have the option to purchase any or all upgrades from ZOLL Data Systems. Periodically, service packs are also made available at no charge to Customer. Program Upgrades are mailed on a CD to customers. Service packs are made available on ZOLL Data Systems’s Internet site or may be mailed on a CD at Customer’s request. *It is highly recommended that Customer obtain a dedicated or dial-up Internet connection to obtain service packs.* **ZOLL Data Systems agrees not to increase its annual percentage fees by more than 5% annually.**

VIII. TECHNICAL SUPPORT. Customer may purchase from ZOLL Data Systems at the option of Customer, a yearly Service and Maintenance package that will include unlimited access to Technical Support personnel for questions and problems relating to the use and the configuration of all ZOLL Data Systems Programs during normal business hours and a 24-hour “hot-line” for emergency support for the RescueNet Dispatch Program only. Technical support is provided via dial-in using the *Symantec™ pcAnywhere™* communication package. Customer is responsible for obtaining an adequate modem and communication software. Technical support is conditioned on full payment of monies owed to ZOLL Data Systems Technologies, Inc. Either party may cancel the Service and Maintenance package upon 30 days written notice to other party. Any liability of ZOLL Data Systems regarding the Service and Maintenance package shall be limited to the fees exchanged for this package. **ZOLL Data Systems agrees not to increase its annual percentage fees by more than 5% annually.**

IX. SOFTWARE SECURITY DEVICE. ZOLL Data Systems protects unauthorized duplication of its software by means of a software security device (also known as an SSD or a ‘dongle’). This device must be present on the server or any NT workstation in order for ZOLL Data Systems’s software to function.

X. CUSTOM PROGRAMMING AND CUSTOM REPORTS. Customer agrees that custom work beyond the software described on the reverse side falls outside the scope of this Agreement. ZOLL Data Systems charges an hourly rate for programming and custom reporting. ZOLL Data Systems reserves the right to refuse any custom work.

XI. RESTRICTIONS. Customer agrees not to sublicense, rent, lease, sell, pledge or otherwise transfer or distribute the original copy or archival copy of the Program or the User Manual without the express written consent of ZOLL Data Systems. A transfer of user licenses to an alternate site may be subject to a 10% re-stocking / transfer fee. Customer agrees not to translate, modify, disassemble, decompile, reverse engineer, or create derivative works based on the Program or any portion thereof. Customer also agrees not to copy the User Manual except for internal training purposes without the express written consent of ZOLL Data Systems.

XII. COLLECTIONS. Customer acknowledges that should Customer not pay this account and the account is assigned to a collection agency, Customer will be liable for any collection fee charged by the agency plus any other collection costs and any reasonable attorney fees and court costs. Furthermore, interest will be assessed at the rate of 18% per year on all outstanding balances.

XIII. CONFIDENTIALITY. In connection with the negotiation of this Agreement and ZOLL Data Systems’s participation in the installation and support of the Software, ZOLL Data Systems has obtained or will obtain certain information regarding the business and financial plans of Customer, the records of patients served by Customer, accounts payable, accounts receivable and billing systems of Customer, personnel information, information regarding vehicle deployment and maintenance, trade secrets, customer lists, and other similar information (collectively “Customer’s Confidential Information”). ZOLL Data Systems hereby agrees that, for itself and its shareholders, officers, directors and employees, ZOLL Data Systems shall not disclose to others any of Customer’s Confidential Information without Customer’s prior written consent for any such disclosure.

In connection with the negotiation of this Agreement and ZOLL Data Systems’s participation in the installation and support of the Software, Customer has obtained or will obtain information regarding the business and financial plans of ZOLL Data Systems, trade secrets of ZOLL Data Systems, the programming which comprises the Program, sales and marketing plans and other similar information (collectively “ZOLL Data Systems’s Confidential Information”). Customer hereby agrees that, for itself and its shareholders, officers, directors and employees, Customer shall not disclose to others any of ZOLL Data Systems’s Confidential Information without ZOLL Data Systems’s prior written consent for any such disclosure.

XIV. LIMITED WARRANTY. ZOLL Data Systems warrants to Customer for ninety (90) days from the date Customer received the Software Package that the Program disks contain an accurate reproduction of the Program, and the copy of the User Manual is accurately reproduced and that the product will perform substantially according to the specifications as described in the User Manual and any functionality specifications. To obtain replacement of these materials, Customer must (i) return the inaccurate disk or copy of the User Manual to ZOLL Data Systems within the warranty period or (ii) first notify ZOLL Data Systems in writing within the warranty period that an inaccuracy has been found and then return the materials. This limited warranty only covers the original user of the Software Package, and ZOLL Data Systems makes no other express warranties. WARRANTIES RELATING TO THIS SECTION ARE LIMITED IN DURATION TO THIS NINETY (90) DAY WARRANTY PERIOD. REPLACEMENT OF THE DISK CONTAINING THE PROGRAM OR THE USER MANUAL IS YOUR EXCLUSIVE REMEDY AND SOLE MEASURE OF RECOVERABLE DAMAGES. Some states do not allow limitations on how long an implied warranty lasts, so the above limitations may not apply. This warranty gives Customer specific legal rights, and Customer may also have other rights that will vary from state to state. Any liability of ZOLL Data Systems regardless of the cause shall be limited to the amount of fees exchanged under this Agreement. Under this agreement Hardware may be provided to the Customer. As a reseller of hardware, ZOLL Data Systems Technologies does not provide any warranty for hardware to the Customer. The only hardware warranties available to Customer, if any, are warranties provided by the hardware manufacturer.

XV. DISCLAIMER. THE PROGRAM AND THE USER MANUAL (“THE PACKAGE”) ARE PROVIDED “AS IS”, WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITATION, ALL WARRANTIES AGAINST INFRINGEMENT OR THE LIKE RESPECTING THE PACKAGE ARE HEREBY DISCLAIMED BY ZOLL DATA SYSTEMS. ZOLL DATA SYSTEMS DOES NOT WARRANT THAT ANY FUNCTIONS CONTAINED IN THIS PACKAGE WILL MEET CUSTOMER’S REQUIREMENTS OR THAT CUSTOMER’S USE OF THE PACKAGE WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER AGREES TO INDEMNIFY ZOLL DATA SYSTEMS AGAINST ANY SUCH LIABILITY TO CUSTOMER OR ANY THIRD PARTY REGARDING THE PACKAGE OR OTHERWISE IN WARRANTY, CONTRACT, TORT OR OTHERWISE. IN NO EVENT WILL ZOLL DATA SYSTEMS BE LIABLE FOR ANY DIRECT, INCIDENTAL, SPECIAL, INDIRECT, GENERAL, OR CONSEQUENTIAL DAMAGE OR LOSS OF ANY NATURE (SUCH AS DAMAGE TO PROPERTY, DAMAGES RESULTING FROM DELAY, CLAIMS OF THIRD PARTIES, LOSS OF PROFITS, OR INJURY TO PERSON) WHICH MAY ARISE IN CONNECTION WITH THE USE OF OR INABILITY TO USE THE PACKAGE. THIS CLAUSE SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply.

Under this agreement, Services such as *RescueNet Mobile Data* and *RescueNet Dispatch Web scheduler* may be provided to Customer. Such Services offered by ZOLL Data Systems Technologies may rely on Third-Party products and services (e.g. Internet Service Providers) to function properly. Customer agrees not to hold ZOLL Data Systems Technologies responsible for any interrupted service and/or damage resulting from a Third-Party service or product. Customer is responsible for the installation of software on Customer’s equipment. In the event that a ZOLL Data Systems representative is requested to install software, Customer shall take reasonable steps to back up other software previously installed on such equipment. In no case shall ZOLL Data Systems be liable for any failure of such third-party software due to installation of ZOLL Data Systems’s software.

~~**XVI. INDEMNIFICATION.** Except as may otherwise be agreed to in writing by the parties, and except with respect to any breach of this Agreement by ZOLL Data Systems, ZOLL Data Systems shall have no responsibility of any kind and Customer shall indemnify and hold harmless ZOLL Data Systems from, against and in respect of the full amount of any and all liabilities, damages and claims, including, without limitation, fees and disbursements of trial and appellate counsel, arising from, in connection with, or incident to the Program.~~

~~**XVII. XVI. TERMINATION.**~~ This License will AUTOMATICALLY terminate if Customer fails to comply with any term or condition of this Agreement. Customer agrees upon such termination to return to ZOLL Data Systems, at Customer’s expense, the Software and accompanying documentation, together with all copies and modifications.

~~**XVIII. XVII. GENERAL.**~~ This Agreement will be governed by the laws of the State of Texas, without regard to or application of conflicts of law rules or principles. Any action or lawsuit related to this Agreement must be brought exclusively in either the Federal or State Courts located in the County of Dallas, and each party hereby irrevocably submits and waives any objection to the exclusive jurisdiction and forum of such courts.

~~**XIX. XVIII. FUTURE PURCHASES.**~~ All future purchases are subject to the terms and conditions of this agreement unless otherwise agreed upon by both parties in writing.

~~**XX. XIX. PAYMENT.**~~ ZOLL Data Systems and Customer will agree upon mutually agreeable training dates. Should training be delayed at the request of Customer beyond 6 months, all payments tied to training will become immediately due.